AMENDED AGENDA

STATE OF TEXAS)(
CITY OF FRIENDSWOOD)(
COUNTIES OF GALVESTON/HARRIS)(
JULY 02, 2018)(

NOTICE IS HEREBY GIVEN OF A FRIENDSWOOD CITY COUNCIL REGULAR MEETING TO BE HELD AT 5:00 PM ON MONDAY, JULY 02, 2018, AT FRIENDSWOOD CITY HALL, COUNCIL CHAMBERS, 910 S. FRIENDSWOOD DRIVE, FRIENDSWOOD, TEXAS, REGARDING THE ITEMS OF BUSINESS ACCORDING TO THE AGENDA LISTED BELOW:

5:00 PM – REGULAR MEETING

1. **Call to order**

2. **Invocation**

3. **Pledge of Allegiance – United States and Texas (HONOR THE TEXAS FLAG; I PLEDGE ALLEGIANCE TO THEE, TEXAS, ONE STATE UNDER GOD, ONE AND INDIVISIBLE)**

4. **Communications from the Public**
   (To comply with provisions of the Open Meetings Act, the City Council may not deliberate on items discussed under this agenda item. The Council may refer this item to the City Manager or direct this item to be placed on the next regular Council agenda. PowerPoint presentations are not conducted during the citizen comment period)

5. **WORK SESSION**
   A. **Emergency Medical Services (EMS) Discussion**
   B. **Updating Park Policies and Procedures**
   C. **Multi-Year Financial Plan**
   D. **Capital Projects Update**

6. **CLOSED EXECUTIVE SESSION – (Executive Conference Room/Adjacent to Council Chambers-City Hall)**
   A. **Communications from the Public regarding Executive Session topics.**
   B. **Council may convene into Executive Session in accordance with the Texas Government Code, pursuant to Section 551.071 – Consultation with attorney,**

to seek the advice of its attorney on matters subject to the attorney-client privilege, with possible discussion and action related thereto in open session and Section 551.071 – Consultation with attorney about pending litigation, Cause No. 18-CV-0687; Christine Audibert v. Zoning Board of Adjustment of the City of Friendswood, Texas; in the 405th Judicial District Court of Galveston County, Texas, with possible discussion and action related thereto in open session.

7. RECONVENE INTO OPEN SESSION

8. Special Recognition and Acknowledgements

A. Presentation of the 15th consecutive Government Finance Officers Association's Distinguished Budget Presentation Award by Allena Portis, Director of Finance for the City of League City.

9. Communications from the Public

(To comply with provisions of the Open Meetings Act, the City Council may not deliberate on items discussed under this agenda item. The Council may refer this item to the City Manager or direct this item to be placed on the next regular Council agenda. PowerPoint presentations are not conducted during the citizen comment period)

10. Communications from Committees and Special Reports

A. Annual Report from the Community & Economic Development Committee Chair Gary Kay

B. Annual Report from West Ranch Management District President Brian Gibson

11. City Manager's Report

A. Movies in the Park
B. Fourth of July Celebration - Reminder
C. Texas Association of Municipal Information Officers (TAMIO) Award
D. American Heart Association Lifeline Gold Plus Recognition to Friendswood Emergency Medical Services (EMS)
E. Friendswood Named One of the Top 50 Suburbs in Texas by Niche
F. Hurricane Harvey Update

12. Discussion and possible action regarding approving appointments/ reappointments to the following Committees, Boards and Commissions:

A. Community and Economic Development Committee – Appoint Blaise Guzzetta to fill the unexpired term of Marcus Perry who resigned with a term expiring July 2021; appoint Mike Hickey to fill the unexpired term of Dr. Hilmar Zeissig who resigned with a term expiring July 2021; reappoint members Skip Evans and Meg Crowley to three year terms expiring July 2021

B. Construction Board of Adjustment and Appeals – Appoint Billy Mendoza to fill the unexpired term of Chris Brown who resigned with a term expiring July 2021; appoint Les French to fill the unexpired term of Arthur Triplette who passed away and had a term expiring July 2021; appoint Randy Weisinger to a three year term expiring July 2021; reappoint members Terry McHugh, Monique

Hammett, Faye Ray, and Rajni Amin to three year terms expiring July 2021

C. Library Board – Reappoint members Mike Czarowitz, Elizabeth Stacy and Ted Thomas to three year terms expiring July 2021

D. Zoning Board of Adjustment and Appeals- Reappoint members David O'Brien III, Ronald Dyer, Mike Czarowitz, and alternate members Linda Thornton, Glen Grayban and Jason Byers to two year terms expiring July 2020

13. Discussion and possible action regarding disposition of RFP No. 2017-04 Ground Emergency Ambulance Services and award to Friendswood Emergency Medical Services (EMS).

14. Discussion and possible action regarding disposition of RFP No. 2018-14 for Professional Audit Services and award to Whitely Penn, LLP.

15. Discussion and possible action regarding updating the Appointment Policy for Boards, Committees and Commissions with amendments.

16. Discussion and possible action regarding authorizing an agreement with Friendswood Independent School District (FISD) for School Resource Officers.

17. Discussion and possible action regarding the reappointment of Judge James Woltz and appointment of Alternate Judge Richard Barfield for Municipal Court.

18. Discussion and possible action regarding concurrence with the City Manager's appointment of Steven Rhea to the position of Assistant City Manager.

19. Resolutions

Consideration and possible action regarding the following:

A. Resolution R2018-11: A resolution of the City of Friendswood, Texas, in support of the dredging of Clear Creek.

B. Resolution R2018-12: A resolution of the City Council of the City of Friendswood, Texas, designating the Mayor as the city's representative in seeking eligible grant funds under General Victim Assistance Direct Services Program; and authorizing the submission of such grant application to the Criminal Justice Division of the Office of Governor.

C. Resolution R2018-13: A resolution of the City of Friendswood, Texas, approving an amendment to the resolution designating individuals of the city as authorized representatives to the Texas Local Government Investment Pool ("Texpool / Texpool Prime"); and repealing all other resolutions inconsistent or in conflict herewith.

20. Ordinances

Consideration and possible action regarding the following:

A. Ordinance No. T2018-13: (Title: Second and Final reading of an ordinance adopting a new code for recodification of the Friendswood City Code) An ordinance adopting and enacting a new code for the City of Friendswood, Texas; providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof; providing for the manner of amending such code; and providing when such code and this ordinance shall

become effective.

B. Ordinance No. T2018-15: (Title: Second and Final reading of an ordinance adopting revisions and updates to Appendix C "Zoning," Section 7.P.5. "North American Industry Classification System (NAICS) Codes" to change the version reference from "1997" to "current" North American Industry Classification System (NAICS) Codes as referenced in Exhibit "A," and revisions and updates to Section 7.P.6. "Permitted Use Table," by adding the "2017 NAICS" reference; providing for the addition of NAICS Use #425 Wholesale Electronics Markets and Agents and Brokers; and providing for the expansion of NAICS Use #447 by adding NAICS Use #447190 Other Gasoline Stations (gas stations without convenience stores; truck stops; and marine service stations) as referenced in Exhibit "B") An ordinance amending the Code of Ordinances of the City of Friendswood, Texas, Appendix C – "Zoning," Section 7, "Schedule of District Regulations," Subsection 7.P.5, "North American Industry Classification System (NAICS) Codes" by changing the reference from "1997" to "current" and amending Subsection 7.P.6, "Permitted Use Table," by adding the "2017 NAICS" reference, by adding NAICS Use #425, Wholesale Electronics Markets and Agents and Brokers; and providing for the expansion of NAICS Use #447 by adding NAICS Use #447190, Other Gasoline Stations (gas stations without convenience stores; truck stops; and marine service stations); providing a penalty for violation in an amount not to exceed $2000, or as otherwise provided by law; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.

C. Ordinance No. T2018-16: (Title: Second and Final reading of an ordinance adopting revisions and updates to Appendix C "Zoning," Section 7.Q.3. "Area and Height exceptions," by adding "g. Stairs in Certain Situations," and exception to allow stairs of an elevated house to encroach the front building line in certain situations) An ordinance amending the Code of Ordinances of the City of Friendswood, Texas, Appendix C – "Zoning," Section 7, "Schedule of District Regulations," Subsection 7.Q.3. "Area and Height Exceptions" by adding "g. Stairs in Certain Situations," an exception to allow stairs of an elevated house to encroach the front building line in certain situations; providing a penalty for violation in an amount not to exceed $2000, or as otherwise provided by law; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.

D. Ordinance No. T2018-17: (Title: Second and Final reading of an ordinance approving an amendment to Ordinances No. 2012-04 and 2016-46 approving an annual rate adjustment for solid waste collection and disposal) An ordinance amending Ordinances No. 2012-04 and 2016-46 in order to approve an annual rate adjustment as provided for in the City of Friendswood – Progressive Waste Solutions of TX, Inc., d/b/a WC of Texas (formerly known as IESI TX Corporation) Solid Waste Franchise. (Waste Connections)

E. Ordinance No. T2018-19: (Title: First reading of an ordinance changing the prior zoning classification of a tract of land consisting of 2.504 acres out of Lot 12, Block 2 of Friendswood Subdivision, as recorded in Volume 238, Page 14, of the Office of the County Clerk of Galveston County, Texas, located at 213 E. Heritage Dr., Friendswood, Galveston County, Texas, to change from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD), as more fully described herein) An ordinance

amending Appendix "C" "Zoning", of the Code of Ordinances of the City of Friendswood, Texas, Section 3, "Provision for Official Zoning Map", rezoning the property generally consisting of 2.504 acres out of Lot 12, Block 2 of Friendswood Subdivision, as recorded in Volume 238, Page 14, of the Office of the County Clerk of Galveston County, Texas, located at 213 E. Heritage Dr., Friendswood, Galveston County, Texas, to change from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD), more fully described in Exhibit "A", incorporated by reference, with such Planned Unit Development (PUD) to be governed for all purposes and conditions pursuant to the attached site plans included in Exhibit "B", all as more specifically provided herein; providing for the amendment of the Official Zoning Map; providing a penalty in an amount not to exceed $2,000 for each day of violation of any provision hereof; and providing for severability.

F. Ordinance No. T2018-20: (Title: First and Final reading of an ordinance adopting Budget Amendment X to the Original General Budget of the City for Fiscal Year 2017-2018 to provide for supplemental appropriation and/or transfer of certain funds) An ordinance amending City of Friendswood, Texas, Ordinance No. 2017-32, passed and approved October 2, 2017, same being an ordinance approving and adopting the City's General Budget for Fiscal Year 2017-2018 by approving "Budget Amendment X" to the "Original General Budget of the City of Friendswood, Texas, for the Fiscal Year 2017-2018"; providing for supplemental appropriation and/or transfer of certain funds; providing for severability; and providing other matters related to the subject.

21. Communications from the Mayor and Councilmembers

22. Consent Agenda

Consideration and possible action regarding the following:

A. Approving a Buyout License Agreement for 401 Richmond Lane and authorizing the Mayor to execute the agreement
B. Authorizing the Friendswood Volunteer Fire Department to purchase one 2018 Ford F-150 Crew Cab and authorize the trade-in of a 2009 Ford Expedition
C. Approving an amendment to the contract with Crowder Gulf for Debris Management Services
D. Ratify City Manager's signature on the City's application for Federal Assistance with Elevation and Acquisition
E. Accepting the May 2018 Property Tax Report

23. Adjournment

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive service must be made two (2) business days or more prior to this meeting. Please contact the City Secretary's Office at (281) 996-3270 for further information.

I, MELINDA WELSH, CITY SECRETARY OF THE CITY OF FRIENDSWOOD DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING OF THE FRIENDSWOOD CITY COUNCIL WAS POSTED IN A PLACE CONVENIENT TO THE GENERAL PUBLIC IN

COMPLIANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE, ON JUNE 29, 2018, AT 11:45 AM.

_____

MELINDA WELSH, TRMC
CITY SECRETARY

****All meetings of City Council are open to the public, except when there is a necessity to meet in an Executive Session (closed to the public) under the provisions of Section 551, Texas Government Code. The City Council reserves the right to convene into Executive Session to hear any of the above described agenda items that qualify for an executive session by publicly announcing the applicable section number of the Open Meetings Act.**

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 26, 2018 Dept. Clearances: Morad Kabiri

Prepared by: Morad Kabiri

Subject: Emergency Medical Services Discussion

Originating Department: CMO City Attorney Review: N/A

Proceeding: Work Session

Degree of importance: Critical ☒ Significant ☐ Elective ☐

Expenditure Required:	Amount Budgeted:
Appropriation Required:	Source of Funds:
FINANCE APPROVAL: *N/A*	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

Later on the agenda, Council has an action item to dispose of RFP 2017-04 related to the provision of Ground Emergency Ambulance services. It is the recommendation of City staff that contract negotiations commence with the Friendswood Volunteer Fire Department for EMS activities.

Steven Athey, with Health Care Visions, has been retained by the City for assistance with the next steps of the process; contract negotiations, structure of relationship, and EMS billing. A short presentation will be provided at the meeting.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The provision of Emergency Medical Services is a critical function of any community. A long-term sustainable model is essential.

RECOMMENDATIONS

None at this time

ATTACHMENTS

None

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: **July 2, 2018**

Date Submitted: **June 22, 2018** Dept. Clearances: **Parks and Recreation**

Prepared by: **Michael Boyett**

Subject: **Park and Facility Policies and Procedures**

Originating Department: **P&R** City Attorney Review: Yes

Proceeding: **Work Session**

Degree of importance: Critical ☐ Significant X Elective ☐

Expenditure Required: N/A	Amount Budgeted: N/A
Appropriation Required: N/A	Source of Funds: N/A
FINANCE APPROVAL:	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

Recently, the Parks and Recreation Department, along with the KFB-Parks Board have reviewed the existing Policies and Procedures for park facilities; last approved in 2013. Since the last update, changes have been made throughout the parks system, such as the addition of Lake Friendswood Park and the renovations to Old City Park. Further review is requested by City Council for any policy additions, changes, or other recommendations.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Updated policy and procedures are essential for the residents of the community, the policy and procedures serve as a guideline for expectation and responsibility when visiting Friendswood Parks.

RECOMMENDATIONS

None at this time

ATTACHMENTS

Park and Facility Policies and Procedures-DRAFT

CITY OF FRIENDSWOOD PARKS AND RECREATION
RULES AND REGULATIONS
FOR
PARKS AND RECREATION FACILITIES

DECLARATION OF POLICY:

It is hereby declared to be the policy of the City of Friendswood to acquire, maintain and facilitate the use of properties to be utilized as public parks, squares and ways and other appropriate public facilities, giving due recognition to the social ideas of sports, recreation, the arts and the appreciation of beauty and ability.

DEFINITIONS:

Park: Any property dedicated or used as a park or for Public Park purposes or that may be dedicated or used as a park or for public park purposes within the city, and which park includes land, the title to which is in the City.

PERMITS:

A permit shall be obtained for the following activities:

1. Use of any park or recreation facility of the city for functions or gatherings of a group of persons numbering more than twenty five (25)
2. Use of any park or recreation facility after posted hours
3. Any overnight usage of any park or recreation facility
4. Building of a fire in areas not designated for such activity or not in receptacles designated for fires (must be approved by Fire Marshall)
5. Any erection of signs at a park or recreation facility
6. Solicitation or peddling of any nature (except for political campaign literature)

APPLICATION:

The following information shall be provided on the application for a permit:

1. The purpose of the event
2. The date, time and place where the function or event is scheduled to take place
3. The estimated number of persons attending the event
4. The person responsible for the event
5. Certificate of liability insurance naming the City of Friendswood as an additional insured (if requested)

APPROVAL:

All permits must be approved and signed by the Director of Parks and Recreation and reviewed by City officials as deemed necessary.

The rules and regulations for parks and recreation facilities are designed to provide safe and fun recreational activities for the entire family. All rules and regulations shall adhere to all City of Friendswood Ordinances and Resolutions. For further clarification of rules and regulations for City Park and recreational facilities, see Chapter 58 of the City Code of the City of Friendswood.

EXCEPTIONS:

Any exceptions to the Policies and Procedures of the Parks and Recreation Department may only be granted by the Director of Parks and Recreation and must meet with the approval of the Friendswood Police Department, the City Manager's Office and any other City Departments that might be impacted by such exceptions.

GENERAL RULES (apply to all parks):

1. No person shall injure, deface, destroy, disturb, or remove any part of the Park or building, sign, equipment, or other property found therein, nor shall any tree, flower, shrub or other vegetation, or fruit or seed thereof, or rock, or mineral be removed, injured, destroyed, or disturbed without specific written permission from the Director.

2. Within the parks and public lands of the Parks District, no person shall without lawful authority or privilege to do so recklessly cut down, destroy, girdle, or injure a vine, bush, shrub, sapling, tree, or crop standing or growing therein, or sever, injure or destroy a product standing or growing therein or other thing attached thereto. In addition to the penalty provided herein, whoever violates this section shall be liable in treble damages for the injury caused.

3. No person, without the specific written consent of the Director, shall bring into, leave behind, or dump any material of any kind in the Park except the refuse, ashes, garbage, and other material arising from the normal use and enjoyment of a picnic, camp, or other permitted activity and such material shall be deposited in receptacles or pits provided for such purposes. Nor shall the same be left or deposited without or near the parks so as to pollute the waters or air coursing through or over the parks or otherwise to interfere with proper use and enjoyment of all the parks. No bottles, cans, refuse or foreign material of any description shall be deposited or thrown in any of the streams, waterways, ponds, or lakes located in any of the parks.

4. No person while within the Park shall knowingly obtain, possess or use a controlled substance or drug abuse instrument including but not limited to any drug of abuse, hallucinogen, controlled substance, marijuana, harmful intoxicant.

5. Alcohol may not be sold at any park. Alcohol may not be possessed during events specifically designed for the participation of minors.

6. No person shall establish or maintain any camp or other temporary lodging or sleeping place within the Park without a specific written permit from the Director.

7. Approved open-flame devices shall only be used for cooking at least ten feet away from any structure or canopy of trees.

8. No person shall sell or offer for sale any article, thing, privilege or service within any Park grounds or park lands unless he has applied for and been issued written permission from the Director.

9. No person shall stick or post any advertisement, poster, sign, handbill or placard of any description upon any building, vehicle, tree, post, fence, billboard, or other structure within the Park without written permission of the Director; nor paint, mark, write, print or impress, or in any manner attach any notice of advertisement or the name of any commodity or thing or any trademark, symbol, or figure of any kind upon any property within the Park without first obtaining permission of the owner of such thing or the Director on which he desires to place such notice, advertisement, name, mark or figure.

10. Any vehicle left within the confines of the Park between the hours of closing and opening shall be subject to removal at the owner's expense.

11. Horseback riders and bicycle riders shall stay on designated paths and trails.

12. Boats, surfboards, water skis, scuba diving gear and similar aquatic equipment are prohibited within the designated swimming areas.

13. No person shall hit a golf ball or practice golf except in areas where designated by the Director.

14. All Farmers' Markets must adhere to the City of Friendswood Code of Ordinances Appendix C, Zoning Ordinance Section 8.M. as amended by Ordinance 2013-36.

15. Upon a roadway designated and posted with signs for one-way traffic, a vehicle shall be driven only in the direction designated.

16. No person shall park or store any motor car, motor vehicle, bicycle, wagon, or other vehicle within any traveled roadway in the Park or at any location where posted signs prohibit parking except in emergencies or upon any sod, gravel or other surface not specially designated as "A PARKING AREA".

17. No person shall park a bicycle, motorized bicycle, or motorcycle in such a manner so as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

18. Domestic animals are allowed however, strict adherence to the leash and pooper scooper laws will be enforced.

19. Firearms are strictly prohibited unless otherwise permitted by State law.

20. Glass containers and smoking are prohibited.

21. All tobacco products: smoking and vaping are prohibited.

22. Any event with 75 or more people and/or any group that possesses alcohol must secure the services of at least two (2) City of Friendswood Police Officers to provide security for the event. Call (281) 996-3300 to schedule security.

ACTIVITY BUILDING
POLICIES AND PROCEDURES

The Activity Building provides space for meetings, fitness classes and the Senior Citizen Program. The following policies and procedures must be strictly adhered to at all times:

1. The facility shall be available for public use in accordance with the following schedule:

   Monday - Friday 8:00 a.m. - 10:00 p.m.
   Saturday - Sunday 10:00 a.m. - 10:00 p.m.

   All activities shall not begin before, or end later than the posted hours of operation.

2. The maximum number of people allowed in the facility at any one time is 327.

3. The following activities are permitted to take place at the Activity Building:

   a. Senior Citizen Program
   b. Fitness classes
   c. City/community/religious meetings
   d. Any City sponsored activity or program

4. The following activities are not permitted at the Activity Building:

   a. Wedding receptions
   b. Private parties
   c. Band concerts/auditions

5. All activity must adhere to allowable noise levels in accordance with the law pertaining to a residential area.

6. Glass containers are prohibited.

7. All tobacco products: smoking and vaping are prohibited.

8. The City reserves the right to waive and/or amend the above restrictions as deemed necessary to facilitate the operation of the Activity Building.

9. Any event with 75 or more people and/or any group that possesses alcohol must secure the services of at least two (2) City of Friendswood Police Officers to provide security for the event. Call (281) 996-3300 to schedule security.

10. Firearms are strictly prohibited unless otherwise permitted by State law.

****Note** Keys to the Activity Building must be picked during normal operating hours; Monday-Thursday 7:30 a.m. – 5:30 p.m., Fridays 8:00 a.m. – 5:00 p.m. $25.00 fee will be charged to the user if the keys are requested during non-normal operating office hours.**

STEVENSON PARK
POLICIES AND PROCEDURES

Stevenson Park contains approximately 24 acres of parkland that includes the Sesquicentennial Swimming Pool, the Splash Pad, the Rotary Pavilions, playground equipment, tennis courts, pickleball court, basketball courts, the Gazebo, volleyball courts, jogging trail, wooded area and open space for the entire family.

1. Glass containers are prohibited.

2. All tobacco products: smoking and vaping are prohibited

3. No person shall sell or offer for sale any article, thing, privilege or service within any Park grounds or park lands unless he has applied for and been issued written permission from the Director

4. Any group with 25 or more persons and/or any group that possesses alcohol must secure a permit to utilize the park.

5. Any event with 75 or more people and/or any group that possesses alcohol must secure a permit and the services of two (2) City of Friendswood Police Officers to provide security for the event. Call (281) 996-3300 to schedule security.

6. The Gazebo and Pavilion may be secured for use by permit through the Parks and Recreation Department.

Fees:	Resident Rate	Non-Resident Rate
Deposit:	$200 Clean-up and Security Deposit	$200
Gazebo:	$50 Rental Fee	$75
Pavilion:	$75 Rental Fee	$175

7. Permit holders for the Gazebo and Pavilion are required to pick up all trash and debris following their event and deposit the remains in the dumpster located in the parking lot behind the swimming pool.

8. Live bands are not allowed. DJs and loud music must secure a permit from the Parks & Recreation Department and a noise permit from the Friendswood Police Dept. at 281-996-3300.

9. Piñatas are allowed at the Large Rotary Pavilion, but not inside the structure. However, ALL debris including candy, paper, string and any other trash caused by the piñata must be cleaned up. Security deposit will be held if any trash from the piñata is not cleaned up.

10. The use of tape or any adhesive that may remove paint from the structure is strictly prohibited. Security deposits will be held if there is any damage to the structure (tables, fans, etc.) or if adhesive material is left behind.

11. Use of confetti is strictly prohibited.

12. Hammocks, slack lines, and tight ropes are not allowed to be hung from any structure.

13. The tennis and pickleball court(s) are to be used for their intended use only. Non-players and persons waiting to play must wait outside the fenced area.

14. Use of the tennis courts and pickleball court will be on a first-come, first serve basis. No individual may be on the tennis/pickleball courts for more than one hour if people are waiting.

15. Throwing tennis rackets, metal objects, or other items manufactured of hard material in the park is prohibited.

16. All persons entering the tennis/pickleball courts and basketball area must wear tennis shoes. Leather soles, cleated footwear, roller blades and skateboards will damage the surface and therefore are not allowed.

17. Private tennis, pickleball, basketball and volleyball lessons are offered through the cooperation of the City. These classes will utilize no more than two courts during crowded times.

18. To reserve tennis, pickleball, volleyball or basketball courts for practice, tournaments, or private rentals, please contact the Parks and Recreation Department.

19. Use of obscene language is prohibited

20. Unauthorized motorized vehicles are prohibited within the park. Vehicles may not be driven into the park at any time. Loading/unloading must be done from parking areas or small drive at the Rotary Pavilion.

21. Domestic animals are allowed however, strict adherence to the leash laws will be enforced. All pet waste must be collected and disposed of promptly.

22. Bicycles are prohibited on the jogging trail.

23. Roller blades, skateboards and bicycles are prohibited inside the Rotary Pavilions, Gazebo, tennis courts and basketball courts.

24. The park will be open twenty four hours per day.

25. Firearms are strictly prohibited unless otherwise permitted by State law.

****Note** Keys to the Rotary Pavilion for the lighting must be picked up at the Parks & Recreation main office M-F during normal operating hours. Normal operating hours are Monday - Thursday 7:30 a.m. – 5:30 p.m., Fridays 8:00 a.m. – 5:00 p.m. $25.00 fee will be charged to the user if the keys are requested during non-normal operating office hours.**

STEVENSON PARK SPLASH PAD
RULES AND REGULATIONS

1. All persons using the splash pad do so at their own risk. No lifeguard on duty.
2. All children must have adult supervision at all times.
3. No running or rough play or foul language will be tolerated.
4. Infants must wear swim diapers.
5. Persons with open cuts or sores, infection or diseases that may be transmitted are prohibited.
6. Pets are not allowed on the splash pad.
7. Do not carry or wash off sand onto the splash pad.
8. No food, drink, or glass containers on the splash pad.
9. Skateboards, rollerblades and bikes are not permitted.
10. Do not use the splash pad during severe weather conditions.
11. No electrical appliances within 5 feet of the splash pad.
12. Do not cover water fixtures or drains.
13. Splash pad may be closed at any time due to maintenance.
14. Climbing or hanging on splash pad features is strictly prohibited.
15. Hours of operation are 8:00 A.M. to 8:00 P.M.

STEVENSON PARK
SESQUINCENTENNIAL POOL
RULES AND REGULATIONS

1. All persons entering the pool must pay the admission fee and have a pass or ID card.

2. No running.

3. Diving is prohibited.

4. Pets are not allowed inside the facility.

5. Inflatable toys are not allowed. Certain U.S. Coast Guard approved personal flotation devices will be allowed (check with Lifeguard).

6. Children 12 years and under must be directly accompanied and supervised by a parent or an individual 18 years of age or older.

7. Please take a warm soapy shower before entering the pool.

8. The City is not responsible for lost or stolen items.

9. Smoking, glass containers and alcohol are not allowed in the facility.

10. No food or drink at or near the water.

11. All radios must be kept at a low volume.

12. Running, dunking, horseplay, pushing, profanity or lewd behavior is prohibited.

13. Children under 3 years of age must remain within arm's reach of an adult while in the pool.

14. Cloth and disposable diapers are not allowed in the pool.

15. Swimsuits only - No shorts, shirts or long pants.

16. Beach balls only, restricted to non-crowded times.

17. Anyone caught swimming after hours will forfeit his or her swim pass and will be arrested for TRESPASS.

18. The pool and facility will be cleared upon the first sound of thunder or sight of lightning. Patrons will not be allowed to re-enter the facility until 20 minutes after the last evidence of the storm. The facility will also close during a rainstorm if the pool bottom cannot be seen.

19. The lap lane is open to adults 16 & over. The lap lane is meant for swimming laps and not for water walking or floating. In order to accommodate a number of swimmers, the sharing of lap lanes is at times required. Please swim in a counter clockwise direction, allowing other swimmers to pass in the middle. If the lane has more than four swimmers a new lane rope will be put in to accommodate the extra swimmers

20. Entry fees are as follows:

Resident	
Season Pass, 5 members	$90.00
Each additional member	$10.00
Individual	$55.00
Twenty Visit Pass	$30.00
Daily Visit (all ages)	$ 2.00
Seniors 60 & up	No admission fee

Non-Resident	
Season Pass, 5 members	$100.00
Each additional member	$10.00
Individual	$65.00
Twenty Visit Pass	$45.00
Daily Visit (all ages)	$ 4.00

21. The pool may be reserved for private parties. The resident rental fee is $40/hour plus $10/hour for each lifeguard needed. Non-resident rental fee is $50/hour plus $10/hour for each lifeguard needed.

22. The wooden deck can be reserved for rental during open swim hours for a fee of $10/hour for residents plus a $2 entry fee for each party guest. Non-resident rental fee of $20/hour plus a $2 entry fee for each party guest.

OLD CITY PARK
POLICIES AND PROCEDURES

Old City Park contains a playground, walking trail, covered pavilion, picnic tables, restrooms, multi-purpose field, and dog park.

1. Glass containers are prohibited.

2. All tobacco products: smoking and vaping are prohibited.

3. Any group with twenty-five or more persons and/or group that possess alcohol must secure a permit to utilize the park.

Fees:	Resident Rate	Non-Resident Rate
Deposit:	$200 Clean-up and Security Deposit	$200
Pavilion:	$75 Rental Fee	$175

4. Any event with 75 or more people and/or any group that possess alcohol must secure the services of two (2) City of Friendswood Police Officers to provide security for the event. Call (281) 996-3300 to schedule security.

5. Permit holders for the pavilion and picnic area are responsible for the clean-up and proper disposal of trash.

6. The Park hours are from sunrise to sunset. It shall be prohibited to utilize the park after sunset without a permit from the Parks and Recreation Department.

7. No unauthorized motor vehicles allowed in the park.

8. Firearms are strictly prohibited unless otherwise permitted by State law.

OLD CITY PARK DOG PARK
POLICIES AND PROCEDURES

Old City Park Dog Park is a 1.6 acre facility located off Briarmeadow containing separate open space for large and small dogs. The Dog Park has play equipment, dog bone shaped sand boxes, pet and human water fountains, dog wash and pet waste stations. Hours of operations are 9 A.M. to Sunset.

1. The hours of operation for the facility will be as follows:

   Wednesday – Monday 9:00 a.m. – Sunset.
   Tuesday – Closed for Maintenance

2. All dogs must have current rabies tags and should be healthy, free of contagious diseases and parasites.

3. Dogs must wear current license tags in Dog Park.

4. Non-residents must carry a copy of their dog's rabies certification with them while visiting the dog park. Friendswood residents must have a city issued tag on their dog.

5. Dogs must be leashed upon entering and leaving the dog park.

6. Dog owners/handlers must carry a leash with them at all times while in the Dog Park.

7. Dogs with known history of dangerous behavior are prohibited. If your dog becomes aggressive you must immediately leave the dog park.

8. Owners must be in verbal and sight controls of their dogs at all times and prevent aggressive behavior. Never leave your dog unattended.

9. Dogs in heat are prohibited.

10. Limit of 2 dogs per person per visit.

11. No puppies under 4 months old.

12. Children must be accompanied by a responsible adult.

13. Owners must have pet waste disposal materials at all times and must pick up your dog's fecal matter and properly dispose of it in a trash receptacle.

14. No food or drinks (dog or human) allowed in the dog park.

15. No glass containers or bottles allowed in the dog park.

16. All tobacco products: smoking and vaping are prohibited.

17. No bicycles, skateboards, rollerblades or motorized vehicles allowed in the dog park.

18. No running, shouting, chasing, or petting other people's dogs without the owner's permission.

19. Owners are liable for any damage or injury inflicted by their dogs.

20. The City of Friendswood is not liable for any injuries in the dog park. Use of this dog park is at your own risk.

21. Firearms are strictly prohibited unless otherwise permitted by State law.

FOR EMERGENCY DIAL 911
FRIENDSWOOD POLICE / ANIMAL CONTROL 281-996-3300
DOG PARK INFO 281-996-3220

LITTLE LIBRARY HOUSE
(GIRL SCOUT HOUSE)
POLICIES AND PROCEDURES

The Little Library House/Girl Scout House is available to the public via a permit through the Parks & Recreation Department. The building contains two small meeting rooms, restrooms and a kitchen area.

1. The facility shall be available for public use in accordance with the following schedule:

   Monday - Friday 8:00 a.m. - 10:00 p.m.
   Saturday - Sunday 10:00 a.m. - 10:00 p.m.

   All activities shall not begin before, or end later than the posted hours of operation.

2. The maximum number of people allowed in the building at any one time is 30.

3. The following activities are permitted to take place at the Little Library House:

   a. Senior Programs
   b. Girl Scout Meetings
   c. City/community/religious meetings
   d. Any City sponsored activity or program

4. Alcohol is strictly prohibited.

5. All tobacco products: smoking and vaping are prohibited.

6. Parking is restricted to those locations designated specifically for parking purposes.

7. Firearms are strictly prohibited unless otherwise permitted by State law.

8. Glass containers and smoking are prohibited.

1776 MEMORIAL PARK
POLICIES AND PROCEDURES

1776 Park is a nature park located off FM 2351. The park is comprised of approximately 30 acres of natural parkland, ideal for bird watching and nature study. The park also has a 9 Hole Disc Golf Course for recreational use.

1. The Park is available to the public during daylight hours only.

2. Camping is only allowed with a permit from the Parks and Recreation Department.

3. Camp fires are allowed with a permit from the Parks and Recreation Department and must be approved by the Fire Marshall's Office.

4. Unauthorized motor vehicles are prohibited in the park.

5. Horseback riders and bicycle riders shall stay on designated paths and trails.

6. Fishing is allowed in Clear Creek however, a Texas Parks and Wildlife Department Fishing License is required.

7. Glass containers are prohibited.

8. All tobacco products: smoking and vaping are prohibited.

9. Firearms are strictly prohibited unless otherwise permitted by State law.

RENWICK PARK
SPORTS COMPLEX
POLICIES AND PROCEDURES

Renwick Park is a Youth Baseball Complex located at 205 Stadium Drive. Renwick Park Complex is comprised of eight (8) fields utilized for youth baseball.

1. Use of the athletic fields shall be primarily restricted to the sport and to the age for which the field was constructed.
2. Use of the fields is intended for group activity. Group activity shall take precedence over individual use; use of fields for games shall take precedence over team or individual practice. Nighttime use of lighted fields shall be reserved for group activity only.

3. Groups qualifying for field use can be either organized league teams or groups who are not organized for league play.

4. Any group utilizing Renwick Park must pay the appropriate fee approved by the Friendswood City Council and/or the Director of Parks and Recreation.

5. Any profits derived by the use of the athletic fields, such as the sponsorship of tournaments, shall be donated to an approved charitable organization or civic improvement project.

6. Scheduling of the athletic fields shall be the responsibility of the Director of Parks and Recreation. When fields are used for league play, the Director of Parks and Recreation may delegate the scheduling responsibility to a designated league official for each field and/or the entire complex for the duration of the permitted use.

7. Each league or organization requesting scheduling privileges for a field shall so notify the Director of Parks and Recreation by letter. The letter shall contain the following:

    1. Name, address and phone number of proposed scheduler.
    2. Names, addresses and phone numbers of league officials.
    3. A statement of proposed field usage.
    4. Beginning and end of season dates.
    5. Statement of overall program offered.
    6. An estimate of current participation.
    7. Number of resident and non-resident participants.
    8. A statement of any special field use rules to be imposed by the governing league.
    9. A statement of proposed field maintenance, modifications and additions.
    10. A copy of the organization insurance identifying the City of Friendswood as **an additional insured**.

8. Access to the athletic fields will be limited to the hours of 8:00 a.m. to 11:00 p.m., Monday through Saturday and 12:00 noon to 11:00 p.m. on Sunday. All lights at the park must be turned off before 11:00 p.m. The League President is responsible for ensuring this policy is

adhered to at all times.

9. No motorized vehicles are allowed in the park beyond the parking lot; exceptions include vehicles used for field maintenance or delivery of supplies to fields or concession stand. Authorized vehicles will be issued a permit to enter beyond the entry gate.

10. Parking is prohibited in all fire lanes.

11. Pets are not allowed inside the facility

12. Skateboards, bicycles, rollerblades, and scooters are prohibited during scheduled events.

13. Restrooms at the athletic complex will be locked and will be opened by the concession stand operator or the designated league official.

14. Glass containers are prohibited.

15. All tobacco products: smoking and vaping are prohibited.

16. Firearms are strictly prohibited unless otherwise permitted by State law.

LEAGUE AGREEMENTS

All Westwood Elementary and Bales Intermediate fields will be scheduled for multi-purpose use.

LEAGUE RESPONSIBILITIES (PRIMARY USER)

- All field maintenance and ground improvements
- Clean up of all interior fields
- Pick up of trash and debris left on ground after games and practices
- League President is responsible for adhering to the field lights, schedule
- Upkeep and maintenance of all batting cages

CITY RESPONSIBILITIES

- Existing lights
- Existing fences
- Plumbing of City buildings
- Parking lot
- Roadways
- Mowing of common areas
- Trash pick-up and cleaning of restrooms
- Existing City buildings

*****ANY AND ALL IMPROVEMENTS/ALTERATIONS TO THE PARK (Electrical, plumbing, fencing, lighting, etc...,) MUST BE APPROVED BY THE CITY OF FRIENDSWOOD PRIOR TO THE COMMENCEMENT OF ANY PROJECT*****

CORPORAL STEVEN SHULTZ SPORTSPARK
POLICIES AND PROCEDURES

Steven Shultz Sportspark is a Softball Complex located at the corner of FM 528 and Moore Road in Friendswood. The Sportspark contains four (4) Adult Softball fields, four (4) Youth Girls fields and two (2) restroom/concession facilities.

1. Use of the athletic fields shall be primarily restricted to the sport for which the field was constructed.

2. Use of the fields is intended for group activity. Group activity shall take precedence over individual use; use of fields for games shall take precedence over team or individual practice. Nighttime use of lighted fields shall be reserved for group activity only.

3. Groups qualifying for field use can be either organized league teams or groups who are not organized for league play.

4. Any group utilizing Steven Shultz Sportspark, must pay the appropriate fee approved by the Friendswood City Council and/or the Director of Parks and Recreation.

5. Any profits derived by the use of the athletic fields, such as the sponsorship of tournaments, shall be donated to an approved charitable organization or civic improvement project.

6. Scheduling of the athletic fields shall be the responsibility of the Director of Parks and Recreation. When fields are used for league play, the Director of Parks and Recreation may delegate the scheduling responsibility to a designated league official for each field and/or the entire complex for the duration of the permitted use.

7. Each league or organization requesting scheduling privileges for a field shall so notify the Director of Parks and Recreation by letter. The letter shall contain the following:

    1. Name, address and phone number of proposed scheduler.
    2. Names, addresses and phone number of league officials.
    3. A statement of proposed field usage.
    4. Beginning and end of season dates.
    5. Statement of overall program offered.
    6. An estimate of current year's participation.
    7. Number of resident and non-resident participants.
    8. A statement of any special field use rules to be imposed by the governing league.
    9. A statement of proposed field maintenance, modifications and additions.
    10. A copy of the organization insurance identifying the City of Friendswood as **an additional insured**.

8. Access to the athletic fields for league play will be limited to the hours of 8:00 a.m. to 11:00 p.m., Monday through Saturday and 12:00 noon to 11:00 p.m. on Sunday. All lights

at the park must be turned off before 11:00 p.m. The League President is responsible for ensuring this policy is adhered to at all times.

9. No motorized vehicles are allowed in the park beyond the parking lot; exceptions include vehicles used for field maintenance or delivery of supplies to fields or concession stand. Authorized vehicles will be issued a permit to enter beyond the entry gate.

10. Restrooms at the athletic complex will be locked and will be opened by the concession stand operator or the designated league official.

11. Glass containers are prohibited.

12. All tobacco products: smoking and vaping are prohibited.

13. Firearms are strictly prohibited unless otherwise permitted by State law.

LEAGUE RESPONSIBILITIES (PRIMARY USER)

- Field maintenance and ground improvements
- Clean up of all ball fields
- Pick up of trash and debris left on ground after games and practices.
- League President is responsible for adhering to the field lights schedule
- Upkeep and maintenance of all batting cages

CITY RESPONSIBILITIES

- Existing lights
- Existing fences
- Parking lot
- Roadways
- Weekly mowing
- Trash pick-up and cleaning of restrooms
- Existing City buildings

*****ANY AND ALL IMPROVEMENTS/ALTERATIONS TO THE PARK**

(electrical, plumbing, fencing, lighting, etc...,) MUST BE APPROVED BY THE CITY OF FRIENDSWOOD PRIOR TO THE COMMENCEMENT OF ANY PROJECT***

LEAVESLEY PARK
JONES HANGAR
POLICIES AND PROCEDURES

Leavesley Park provides building space for wedding receptions, parties, dance rehearsals and other large functions.

1. The facility shall be available for public use in accordance with the following schedule:

Sunday - Thursday	8:00 a.m. - 12:00 a.m.
Friday - Saturday	8:00 a.m. - 1:00 a.m.

2. All activities shall not begin before or end later than the posted hours of operation.

3. The maximum number of people allowed in the facility at any one time is 247.

4. The building will be rented to groups or individual adults on a first-come-first served basis.

5. Under certain conditions the City may require the proof of event insurance naming the City as an additional insured.

6. All activity must adhere to allowable noise levels in accordance with the law pertaining to a residential area.

7. Any group holding an activity that will have 75 or more persons in attendance and/or any activity where alcohol is served, or present, will be required to hire two (2) City of Friendswood Police Officers for security. Contact Friendswood Police Department at (281) 996-3300 to arrange security.

8. Glass containers are prohibited.

9. All tobacco products: smoking and vaping are prohibited.

10. The building may not be leased to a minor. The responsible party must be at least twenty one (21) years of age.

11. Any group using the building shall be responsible for the general clean up of the litter created by their activity. The responsible party must sweep and mop the building and empty all trash containers in the dumpster located outside the facility.

12. Any commercial event where fees are collected shall pay the City 10% of the profits.

13. Fees:

Deposit (100% refundable):	$500
Janitorial Fee:	$250
(required for Friday & Saturday evening rentals)	

Non-profit group:	$25/hr
Resident:	$60/hr
Non-resident:	$80/hr

14. Firearms are strictly prohibited unless otherwise permitted by State law.

****Note** Keys to the Jones Hangar must be picked up at the Parks & Recreation main office M-F during normal operating hours. Normal operating hours are Monday - Thursday 7:30 a.m. – 5:30 p.m., Fridays 8:00 a.m. – 5:00 p.m. An additional $25.00 fee will be charged to the user if the keys are requested during non-normal operating office hours.**

CENTENNIAL PARK
POLICIES AND PROCEDURES

Centennial Park is a multipurpose Sports Complex located at 2200 S. Friendswood Dr., in Friendswood. Centennial Park contains two picnic pavilions, a ¾ mile hiking/jogging trail, playground, concessions, restrooms, one multipurpose field (with 4-lane, all-weather track), one football field, eight soccer fields, one practice field, two detention fields, and a 3-acre pond.

1. Use of the athletic fields shall be primarily restricted to the sport for which the field was constructed.

2. Use of the fields is intended for group activity. Group activity shall take precedence over individual use; use of fields for games shall take precedence over team or individual practice. Nighttime use of lighted fields shall be reserved for group activity only.

3. Groups qualifying for field use can be either organized league teams or groups who are not organized for league play.

4. Any group utilizing Centennial Park must pay the appropriate fee approved by the Friendswood City Council and/or the Director of Parks & Recreation.

5. The Pavilions may be secured for use by permit through the Parks & Recreation Department.

Fees:	Resident Rate	Non-Resident Rate
Deposit:	$200 Clean-up and Security Deposit	$200
Pavilion:	$75 Rental Fee	$175

6. Any profits derived by the use of the athletic fields, such as the sponsorship of tournaments, shall be donated to an approved charitable organization or civic improvement project.

7. Scheduling of the athletic fields shall be the responsibility of the Director of Parks and Recreation. When fields are used for league play, the Director of Parks and Recreation may delegate the scheduling responsibility to a designated league official for each field and/or the entire complex for the duration of the permitted use.

8. Each league or organization requesting scheduling privileges for a field shall so notify the Director of Parks and Recreation by letter. The letter shall contain the following:

    1. Name, address and phone number of proposed scheduler.
    2. Names, addresses and phone number of league officials.
    3. A statement of proposed field usage.
    4. Beginning and end of season dates.

5. Statement of overall program offered.
6. An estimate of current year's participation.
7. Number of resident and non-resident participants.
8. A statement of any special field use rules to be imposed by the governing league.
9. A statement of proposed field maintenance, modifications and additions.
10. A copy of the organization insurance identifying the City of Friendswood as **an additional insured**.

9. Access to the athletic fields for league play will be limited to the hours of 8:00 a.m. to 11:00 p.m., Monday through Saturday and 12:00 noon to 11:00 p.m. on Sunday. All lights at the park must be turned off before 11:00 p.m. The League President is responsible for ensuring this policy is adhered to at all times.

10. No motorized vehicles are allowed in the park beyond the parking lot; exceptions include vehicles used for field maintenance or delivery of supplies to fields or storage facility. Authorized vehicles will be issued a permit to enter beyond the entry gate.

11. Skateboards, bicycles, roller blades and scooters are prohibited in the pavilions and the Columbia Shuttle Plaza.

12. Fishing is allowed in the lake, no state or local permits are necessary.

13. Unauthorized watercrafts are prohibited.

14. Swimming is prohibited in the lake.

15. Glass containers and smoking are prohibited.

16. Firearms are strictly prohibited unless otherwise permitted by State law.

17. Domestic animals are allowed however, strict adherence to the leash and pooper scooper laws will be enforced.

18. Any group with twenty-five or more persons and/or any group that possesses alcohol must secure a permit to utilize the park.

19. Any event with 75 or more people and/or any group that possesses alcohol must secure the services of two (2) City of Friendswood Police Officers to provide security for the event. Call (281) 996-3300 to schedule security.

LEAGUE RESPONSIBILITIES (PRIMARY USER)

- Responsible for all field maintenance and ground improvements.

- Responsible for trash and debris left on ground after games and practices.

- League President is responsible for adhering to the field lights, schedule.
- Responsible for the upkeep and maintenance of all soccer field goals.

CITY RESPONSIBILITIES

- Existing lights
- Existing fences
- Parking lot
- Roadways
- Mowing of fields weekly
- Trash pick-up and cleaning of restrooms
- 3-Acre Pond

****ANY AND ALL IMPROVEMENTS/ALTERATIONS TO THE PARK (electrical, plumbing, fencing, lighting, etc.,) MUST BE APPROVED BY THE CITY OF FRIENDSWOOD PRIOR TO THE COMMENCEMENT OF ANY PROJECT****

EVELYN B. NEWMAN AMPHITHEATER
POLICIES AND PROCEDURES

The Evelyn B. Newman Amphitheater provides facility space for Fine Arts productions, community events, special event and private rentals.

The hours of operation for the facility will be as follows:

Sunday – Thursday	11:00 a.m. – 10:00 p.m.
Friday – Saturday	8:00 a.m. – 10:00 p.m.

Activities may not begin before the posted hours of operation. The facility must be completely cleaned up and vacated by 11:00 p.m. No music may be played and/or performed after 10:00 p.m.

1. The maximum number of people allowed in the facility (inside the fenced area) at any one time is 1,500.

2. The amphitheater will be rented to groups or individual adults on a first-come-first serve basis. No preference will be given to previous permit holders.

3. Any group holding an activity that will have 75 or more persons in attendance and/or any activity where alcohol is served, or present, will be required to hire two (2) City of Friendswood Police Officers for security. Contact Friendswood Police Department at (281) 996-3300 to arrange security.
4. Glass containers are prohibited.

5. All tobacco products: smoking and vaping are prohibited.

6. The grounds and facility may not be rented to a minor. The responsible party must be at least twenty-one years of age.

7. All individuals, groups and/or organizations using the facility will be responsible for cleaning up all litter and debris created by the rental. The responsible party must pick-up all litter and debris and dispose of it accordingly. All trash containers must be emptied and supplied with a new trash liner.

8. Firearms are strictly prohibited unless otherwise permitted by State law.

9. Any event or activity that will have 75 or more in attendance at the facility must provide liability insurance naming the City of Friendswood as an additional insured.

10. Liability insurance naming the City of Friendswood as an additional insured is required for

any event selling food.

11. All food vendors must have a valid Galveston County Health Department food license.

12. Fees:

		Resident Rate	Non-Resident Rate
a.	Deposit:	$500 Clean-up and Security Deposit	$500
b.	Fee:	$250 Rental Fee	$350
c.	Janitorial Services:	$200 (Optional)	$200 (optional)

13. Admission Fee: Any event that charges an admission fee shall pay the City of Friendswood 10 % (percent) of the gross receipts from the admission fee and any concessions sold.

14. The City of Friendswood Noise Ordinance must be strictly adhered to at all times. Any deviation from the Ordinance will result in forfeiture of facility, the security deposit and subject to criminal charges to the fullest extent of the law.

15. Permits issued for the use of the amphitheater include all facilities located inside the amphitheater area fence. All other facilities and grounds are subject to additional rental fees.

****Note** Keys to the Evelyn B. Newman Amphitheater must be picked up at the Parks & Recreation main office M-F during normal operating hours. Normal operating hours are Monday - Thursday 7:30 a.m. – 5:30 p.m., Fridays 8:00 a.m. – 5:00 p.m. An additional $25.00 fee will be charged to the user if the keys are requested during non-normal operating office hours.**

LAKE FRIENDSWOOD
POLICIES AND PROCEDURES

Lake Friendswood contains approximately 42 acres of parkland that includes a 36 acre lake, a walking trail, fishing pier, kayak/small boat launch and picnic areas with barbeque pits, exercise equipment, pavilion and restroom facilities, in addition to a wooded area and open space for the entire family.

1. Any group with 25 or more persons and/or any group that possesses alcohol must secure a permit to utilize the park.

2. Any event with 75 or more people and/or any group that possesses alcohol must secure the services of two (2) City of Friendswood Police Officers to provide security for the event. Call (281) 996-3300 to schedule security.

3. Camping only allowed with a permit from the City of Friendswood.

4. Camp fires are allowed with a permit from the Parks and Recreation Department and must be approved by the Fire Marshall's Office.

5. The Park hours are from sunrise to sunset. The use of the barbeque pit area, the picnic area and the exercise equipment are available during daylight hours only. It shall be prohibited to utilize these areas after dark without a permit from the Parks and Recreation Department.

6. The Park hours are from sunrise to sunset. The use of the barbeque pit area, the picnic area and the exercise equipment are available during daylight hours only. It shall be prohibited to utilize these areas after dark without a permit from the Parks and Recreation Department.

7. The Pavilion may be secured for use by permit through the Parks and Recreation Department.

Fees:	Resident Rate	Non-Resident Rate
Deposit:	$200 Clean-up and Security Deposit	$200
Gazebo:	$50 Rental Fee	$75
Pavilion:	$75 Rental Fee	$175

8. Permit holders for the Pavilion are required to pick up all trash and debris following their event and deposit the remains in the dumpster located.

9. No Gasoline powered Motors.

10. Life Jacket required when in a boat of any kind.

11. Fishing license is not required.

12. No free-floating trotlines may be placed in Lake Friendswood.

13. No netting.

14. NO SWIMMING.

15. No littering.

16. Glass containers are prohibited.

17. All tobacco products: smoking and vaping are prohibited.

18. Dogs must be leashed.

19. It is unlawful for any person to frighten, annoy, injure, or kill or attempt to do so to any native animal or bird in any public space, with the exception of city staff and/or approved representatives of the city who may need to attend to wildlife management issues.

20. No selling or offering any goods, wares, services, or merchandise within any parkways, medians, parks, parking lots, playgrounds, swimming pools, or other recreational areas without permission from the Parks and Recreation Department.

21. Bathing, urinating, or defecating in Lake Friendswood or on the public lands or trails abutting or adjacent to Lake Friendswood is prohibited

22. Firearms are strictly prohibited unless otherwise permitted by State law.

FOR EMERGENCY DIAL 911
FRIENDSWOOD POLICE / ANIMAL CONTROL 281-996-3300
PARK INFO 281-996-3220

LANCE CORPORAL WESLEY J. CANNING SPORTSPARK
POLICIES AND PROCEDURES

Lance Corporal Wesley J. Canning Sportspark is a Lacrosse Complex located at the corner of FM - 528 and Moore Road in Friendswood. The Sportspark contains four (4) Adult Softball fields, four (4) Youth Girls fields and two (2) restroom/concession facilities.

1. Use of the athletic fields shall be primarily restricted to the sport for which the field was constructed.

2. Use of the fields is intended for group activity. Group activity shall take precedence over individual use; use of fields for games shall take precedence over team or individual practice. Nighttime use of lighted fields shall be reserved for group activity only.

3. Groups qualifying for field use can be either organized league teams or groups who are not organized for league play.

4. Any group utilizing Steven Shultz Sportspark, must pay the appropriate fee approved by the Friendswood City Council and/or the Director of Parks and Recreation.

5. Any profits derived by the use of the athletic fields, such as the sponsorship of tournaments, shall be donated to an approved charitable organization or civic improvement project.

6. Scheduling of the athletic fields shall be the responsibility of the Director of Parks and Recreation. When fields are used for league play, the Director of Parks and Recreation may delegate the scheduling responsibility to a designated league official for each field and/or the entire complex for the duration of the permitted use.

7. Each league or organization requesting scheduling privileges for a field shall so notify the Director of Parks and Recreation by letter. The letter shall contain the following:

   1. Name, address and phone number of proposed scheduler.
   2. Names, addresses and phone number of league officials.
   3. A statement of proposed field usage.
   4. Beginning and end of season dates.
   5. Statement of overall program offered.
   6. An estimate of current year's participation.
   7. Number of resident and non-resident participants.
   8. A statement of any special field use rules to be imposed by the governing league.
   9. A statement of proposed field maintenance, modifications and additions.
   10. A copy of the organization insurance identifying the City of Friendswood as **an additional insured**.

8. No motorized vehicles are allowed in the park beyond the parking lot; exceptions include

vehicles used for field maintenance or delivery of supplies to fields or concession stand. Authorized vehicles will be issued a permit to enter beyond the entry gate.

9. Access to the athletic fields for league play will be limited to the hours of 8:00 a.m. to 11:00 p.m., Monday through Saturday and 12:00 noon to 11:00 p.m. on Sunday. All lights at the park must be turned off before 11:00 p.m. The League President is responsible for ensuring this policy is adhered to at all times.

10. Restrooms at the athletic complex will be locked and will be opened by the concession stand operator or the designated league official.

11. Glass containers are prohibited.

12. All tobacco products: smoking and vaping are prohibited.

13. Firearms are strictly prohibited unless otherwise permitted by State law.

LEAGUE RESPONSIBILITIES (PRIMARY USER)

- Field maintenance and ground improvements
- Clean up of all ball fields
    - Pick up of trash and debris left on ground after games and practices
- League President is responsible for adhering to the field lights schedule
- Upkeep and maintenance of all batting cages

CITY RESPONSIBILITIES

- Existing lights
- Existing fences
- Parking lot
- Roadways
- Weekly mowing
- Trash pick-up and cleaning of restrooms
- Existing City buildings

*****ANY AND ALL IMPROVEMENTS/ALTERATIONS TO THE PARK (electrical, plumbing, fencing, lighting, etc...,) MUST BE APPROVED BY THE CITY OF FRIENDSWOOD PRIOR TO THE COMMENCEMENT OF ANY PROJECT*****

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 07.02.18

Date Submitted: 06.27.18 Dept. Clearances: K Hampton

Prepared by: Katina Hampton

Subject: City's Multi-Year Financial Plan

Originating Department: Admin Service City Attorney Review: N/A

Proceeding: Work Session

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

Staff will present a summary of the Multi-Year Financial Plan (MYFP), which includes a review of critical assumptions and planning factors that forms the foundation for the upcoming budget. As this is the start of the budget process, staff is also seeking Council's input on key financial "drivers."

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The MYFP is a perpetual planning tool. Updating the plan annually ensures the critical assumptions and drivers are current, relevant and reflect current trends.

RECOMMENDATIONS

None at this time

ATTACHMENTS

MYFP Presentation

City of Friendswood
Multi-Year Financial Plan
General & Debt Service Funds
Fiscal Years 2019 – 2023
July 2, 2018

Work Session Objectives

- High level overview of the City's Multi-Year Financial Plan
- Planning for the General Fund and Debt Service Fund
- Outline critical assumptions and planning factors
- Generate dialogue and input for continuing existing service levels

Scope of Detail

- Revenue Projections
- Expenditure Projections
- Decision Package impacts carried out through the Plan
- Fiscal Year 19 Projected Operating Budget
- Fund Balance

Planning Assumptions

Property Values

Estimated 3% growth in tax base throughout plan

Most other revenue sources

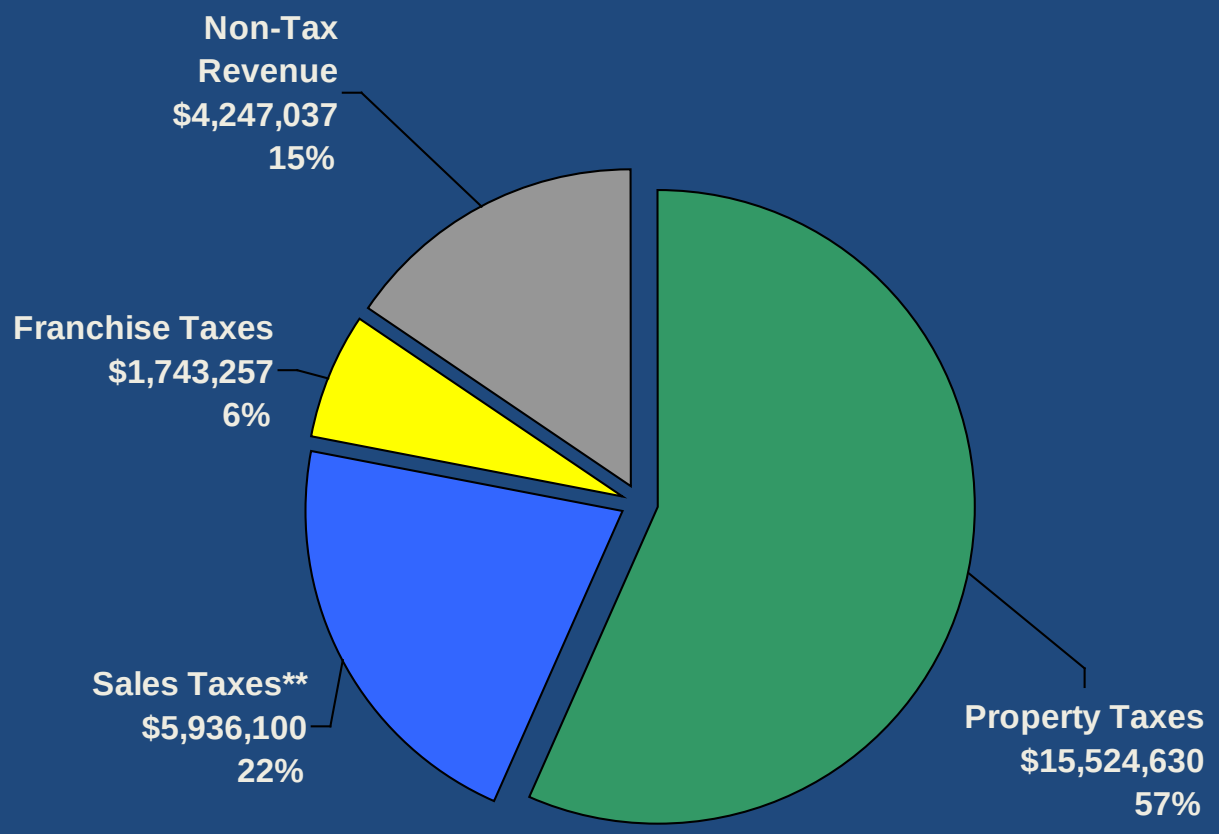
Increase by 2% per year

Revenue Planning Data

- Residential/Commercial Growth projected
- Current trends considered
- Tax base identified
- Fiscal policies
- Revenue forecasting
- Fee adjustments and/or new fees
- Alternative revenue options

Fiscal Year 19 Projected General Fund Revenue

$27,451,024



** Sales tax revenue generated from the ½ cent sales tax approved by voters in 2016 for streets improvements and FDEDC is recorded and expended in funds separate from the General Fund.

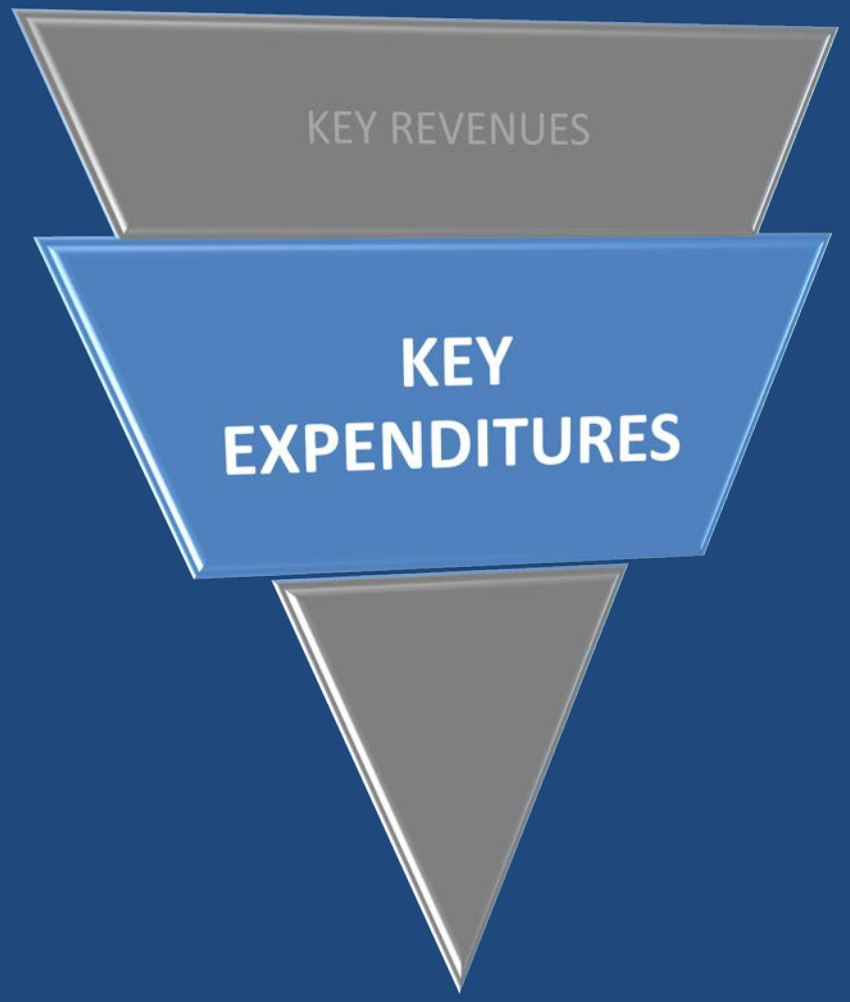
Property Tax Revenue Components

- Gross Appraised Value approximates Market (10% increase cap)
- Taxable Value = Appraised Value LESS Exemptions & Freeze Ceilings
- Tax Levy = Taxable Value x Tax Rate
- Tax Revenue = Tax Levy x Collection Rate
- Tax rate includes debt service and operations & maintenance

Tax Rate Drivers

- Property tax revenue in the plan is based on the effective tax rate
- The effective tax rate generates approximately the same revenue for the same properties
- Revenue growth from revaluations and new construction

Planning Assumptions



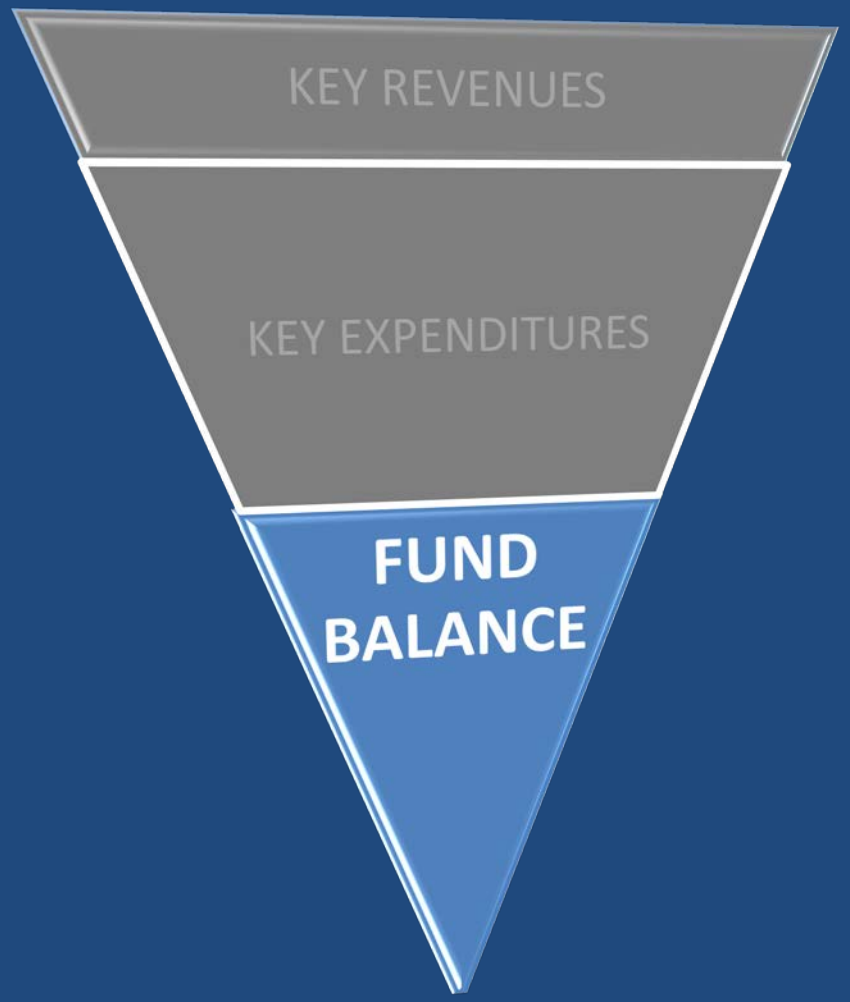
Existing Personnel

3% increase each year for wages and benefits

Non-Personnel

2% increase year over year (based on 5 year historical avg.)

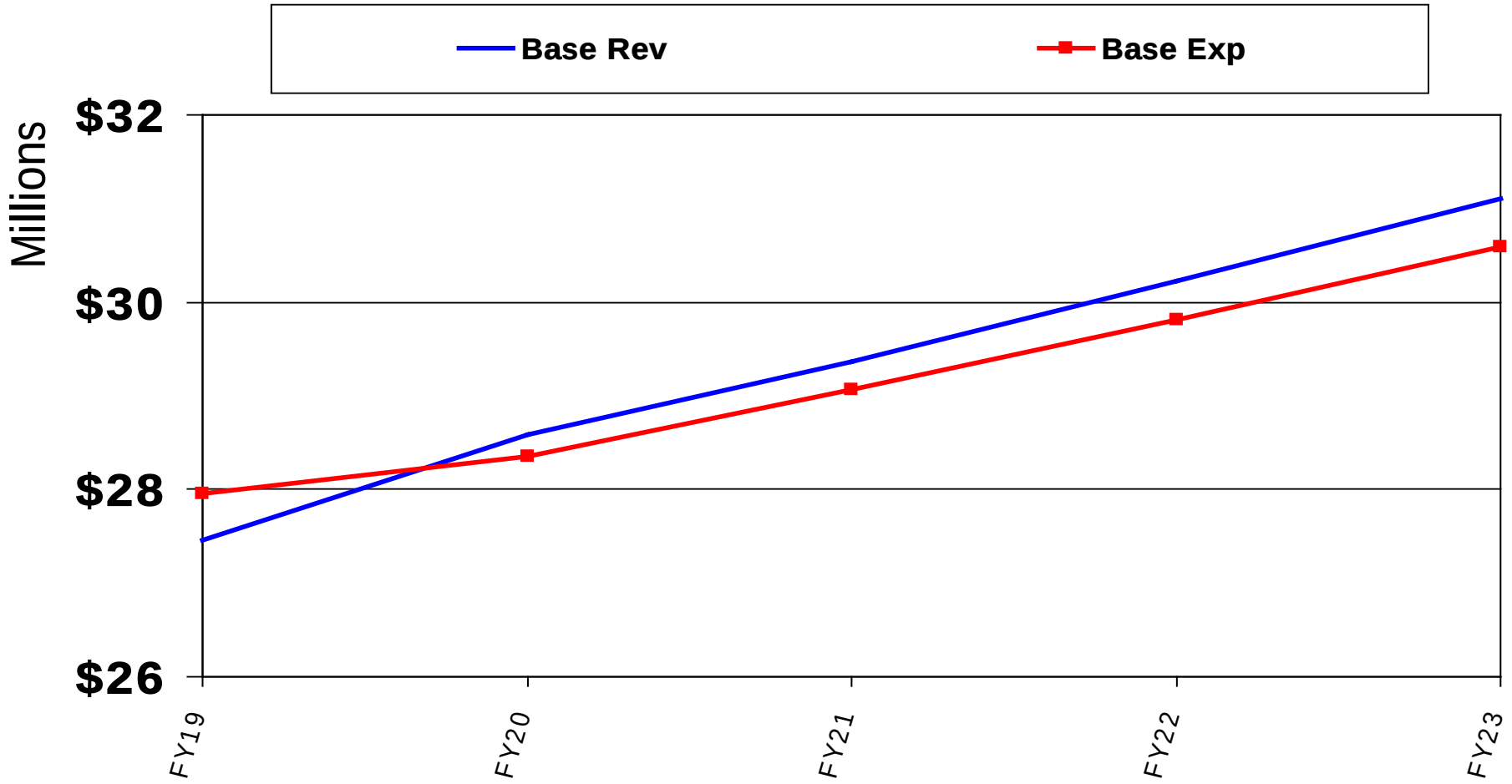
Planning Assumptions



- **Target of 90 Days Operating Reserves**

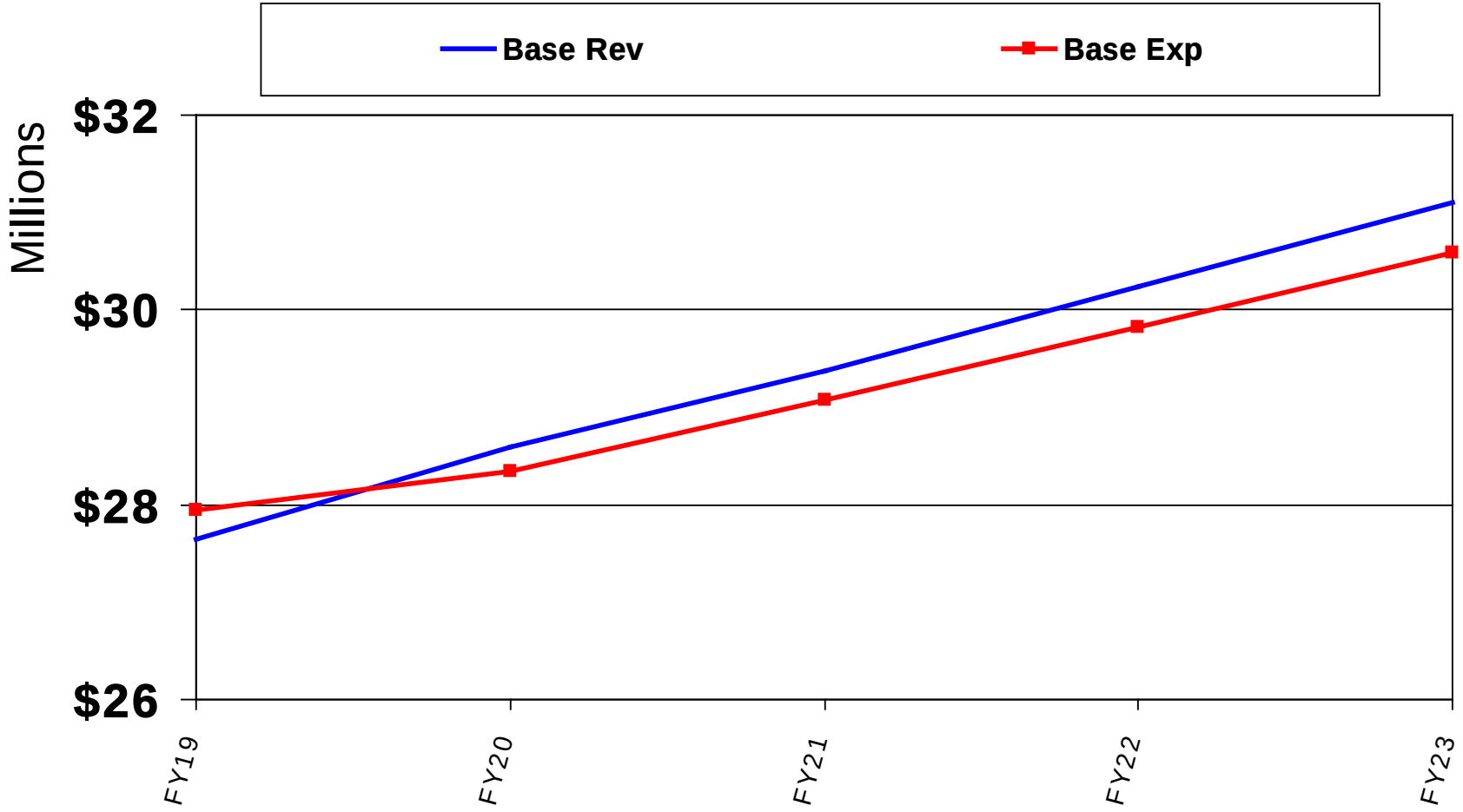
- **Undesignated Fund Balance Uses**
  - **Emergencies**
  - **One-time expenditures without operating cost increase**
  - **Major capital purchases**
  - **Start-up expenditures for new programs**

General Fund
Baseline *Revenues (ETR) & Expenditures*



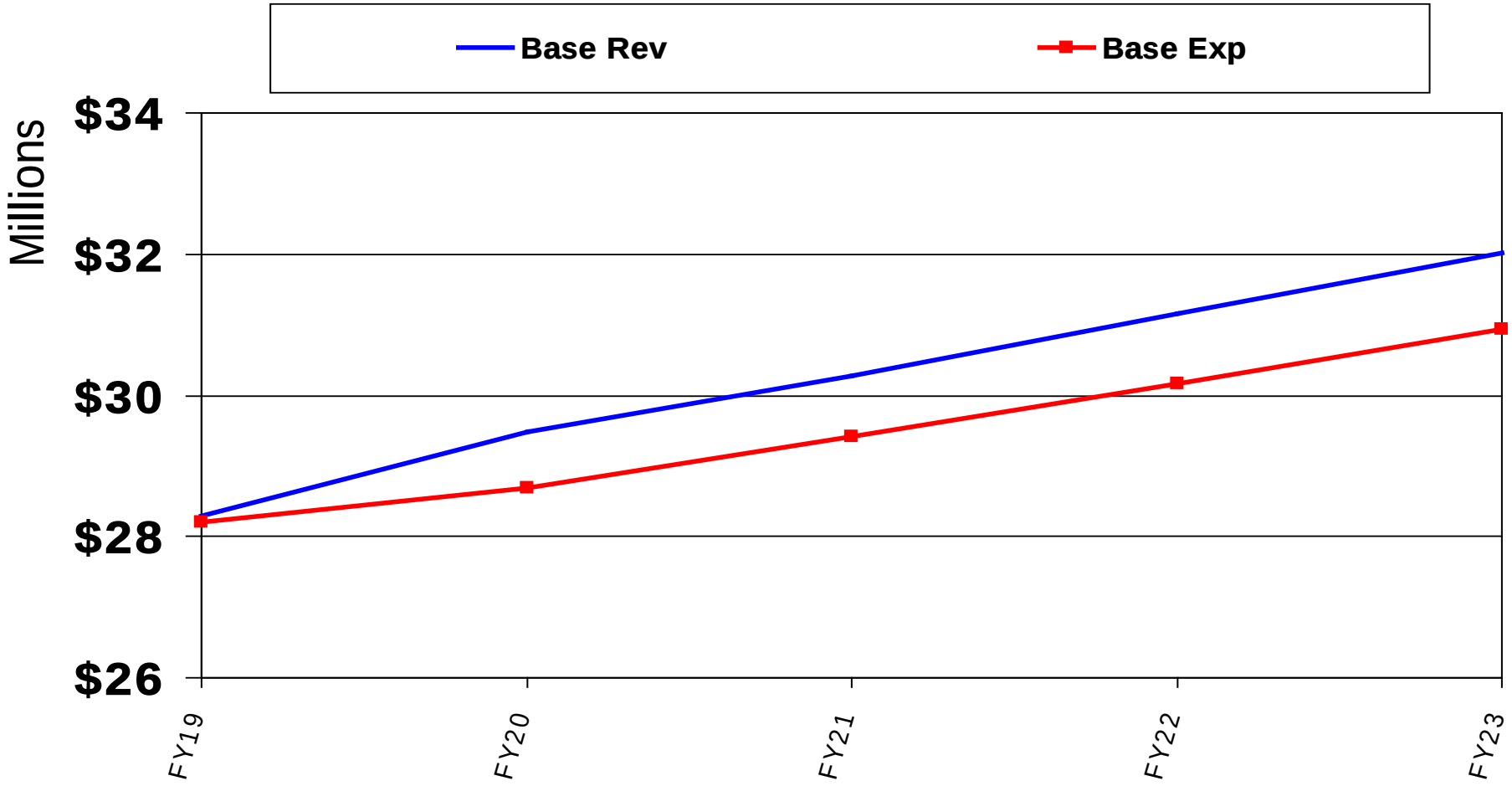
Base expenditures exclude ongoing funding of $500K in the General Fund for streets improvements.
Additional sales tax adopted in 2016 proposed to fund streets improvements.

General Fund
Baseline *Revenues (FLAT TAX RATE) & Expenditures*



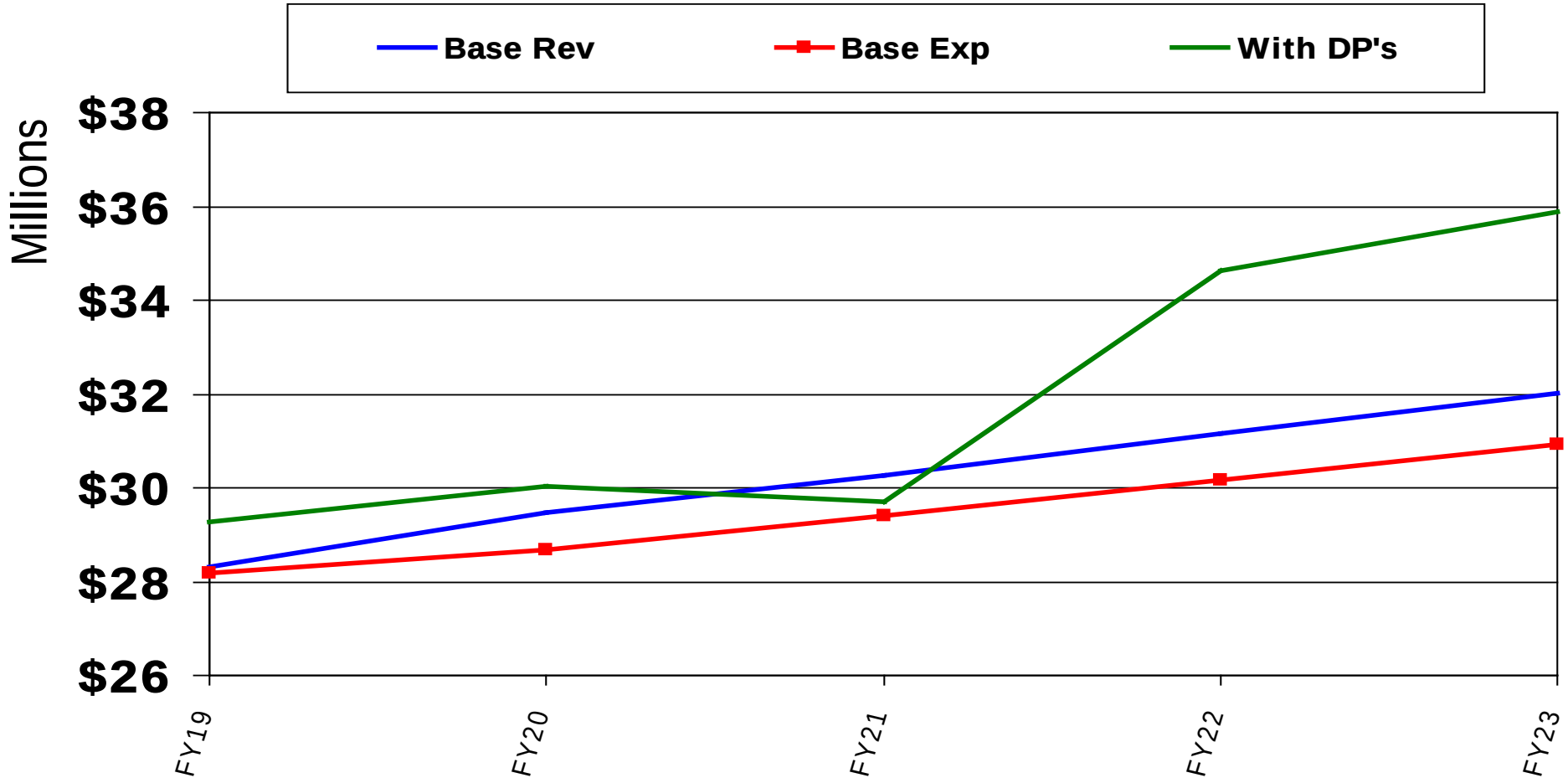
Base expenditures exclude ongoing funding of $500K in the General Fund for streets improvements.
Additional sales tax adopted in 2016 proposed to fund streets improvements.

General Fund
Baseline Expenditures & *Revenues*
(Flat Tax Rate & EMS Billing)



Base expenditures exclude ongoing funding of $500K in the General Fund for streets improvements.
Additional sales tax adopted in 2016 proposed to fund streets improvements.

General Fund
Baseline *Revenues & Expenditures*
(Flat Tax Rate with EMS Billing & Decision Packages)



Base expenditures exclude ongoing funding of $500K in the General Fund for streets improvements.
Additional sales tax adopted in 2016 proposed to fund streets improvements.

Multi-Year Financial Plan Summary

- 90 day operating reserve maintained
  through Fiscal Year 2021

- No Decision Packages are funded in the five year planning window with current projections and assumptions

Council’s Role

- Guidance on tax rate
- Input on existing and alternative revenues
- Programmatic changes
- Participation in budget development

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 28, 2018 Dept. Clearances: Patrick Donart

Prepared by: Rene Ibarra Originating Department: PW

Subject: Update on 2013 Bond Program Projects and Other Capital Projects

Proceeding: Work Session City Attorney Review: N/A

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: N/A

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

At the February 2014 Council meeting, Council directed staff to pursue the Seven-Year plan in undertaking the 2013 Bond Program. Since that meeting, the following activities have been started relative to the bond projects (***please note, a PowerPoint presentation will be provided at the meeting Monday night for additional background***):

- **Old City Park** –The notice to proceed was issued May 14, 2018 and the contractor mobilized on May 22, 2018. The water and sanitary sewer portion of the project has been completed by City crews. The revised project includes a parking lot with 44 spaces, 1,650 linear feet of sidewalks, and storm sewer. Storm drainage infrastructure installation is complete. Contractor has begun paving portion. Story Architects continues with the design of the Restroom Building and Pavilion.

- **Blackhawk Boulevard Phase II** –The City issued the notice to proceed for June 4, 2018. City Council approved three alternates on the project to allow for construction to go from Friendswood Link to Edenvale. Traffic control has been installed, and construction started towards the end of June.

- **Pavement Management Study –** The City has received the detailed report and is the process of compiling a Request of Proposals related to Street Maintenance activities. Staff anticipates the RFP will be advertised and awarded in the August/September timeframe.

- **Lift Station** – Lift Station 23 (FM 518 near Century Ln.) – Staff has reviewed the engineer's recommendation on the wet well and met with the design team to resume design for the project. Staff is coordinating with the engineer on an amendment to the

contract, and aiming to take before Council at the August meeting. The plan is to go out for bids the fourth quarter of this year.

- **Third Clarifier at the Blackhawk Wastewater Treatment Plant**–The Third Clarifier is in full operation. The Plant has begun the process of a Re-rating the plant to acknowledge the completion of the project and the increased wet weather flow capacity.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

RECOMMENDATIONS

None

ATTACHMENTS

CM Report June 2018
Seven Year Plan

Capital Projects Monthly Report

June 2018

I. 2013 BOND PROJECTS – ROUND 1

FS#4 Renovations & New Fire Station at PSB
GO1501 & GO1502

Project Manager:		Tuan Nguyen		
Project Funding Source:		*2013 Facilities Bond*		
Approved Project Budget:		*$6,500,000.00*		
Approved Change Orders:		*-$20,000.00*		
Estimated Completion:		*August 2017*		
Project Status:		*Under Construction*		
	Original Contract Amount	Approved Change Orders	New Contract Amount	Amount Expended
Design:	$478,000.00	-$20,000.00	$458,000.00	$452,246.13
Construction:	$6,100,500.00	$0.00	$6,100,500.00	$5,795,475.00
Miscellaneous:	$6,500.00		$6,500.00	$6,500.00
Testing:				
Total:	$6,585,000.00	-$20,000.00	$6,565,000.00	$6,254,221.13
Contingency	$0.00	$0.00	$0.00	$0.00

For FS4: Punch list completed. Certificate of Occupancy was issued on May 5, 2017.
For FS1: Punch list completed. Certificate of Occupancy was issued on August 1, 2017.

Centennial Park Basketball Pavilion
GO1504

Project Manager:		Jameson S. Appel, CFM		
Project Funding Source:		*2013 Parks Bond Program*		
Approved Project Budget:		*$750,000.00*		
Approved Change Orders:		*$37,103.00*		
Estimated Completion:		*February 2017*		
Project Status:		*Under Construction*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$33,000.00	$0.00	$33,000.00	$30,202.11
Construction:	$462,000.00	$34,547.75	$496,547.75	$471,720.36
Miscellaneous:	$2,000.00	$0.00	$2,000.00	$2,000.00
Testing:	$8,142.00	$2,555.25	$10,697.25	$10,697.25
Total:	$505,142.00	$37,103.00	$542,245.00	$514,619.72
Contingency:	$8,658.00		$0.00	$8,658.00

Certificate of Occupancy was issued on August 1, 2017 and the project was accepted at the August meeting.

Capital Projects Monthly Report
June 2018

Lake Friendswood Park
GO1506A

Project Manager:		Jameson S. Appel, CFM		
Project Funding Source:		*2013 Parks Bonds Program*		
Approved Project Budget:		*$1,080,000.00*		
Approved Change Orders:		*$145,281.65*		
Estimated Completion:		*January 2017*		
Project Status:		*One-Year Maintenance Period*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$0.00	$0.00	$0.00	$0.00
Construction:	$701,189.50	$146,981.65	$848,171.15	$845,921.15
Miscellaneous:	$0.00	$0.00	$0.00	$0.00
Testing:	$5,776.00	-$1,700.00	$4,076.00	$3,990.00
Total:	$706,965.50	$145,281.65	$852,247.15	$849,911.15
Contingency	$70,110.00		$21,110.00	$49,000.00

Lake Friendswood Park trail, restroom, and pavilion is complete. COF Parks Department is working on adding amenities to the pavilion and sidewalk to the workout stations. No change since last report.

Old City Park
PK0070

Project Manager:		*Tuan Nguyen*		
Project Funding Source:		*2013 Parks Fund Program*		
Approved Project Budget:		*$400,000.00*		
Approved Change Orders:		*-$125,035.50*		
Estimated Completion:				
Project Status:		*Design Phase*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$10,500.00	$0.00	$10,500.00	$10,500.00
Construction:	$419,038.30	-$125,035.50	$294,002.80	$0.00
Miscellaneous:	$99,165.32	$0.00	$99,165.32	$52,517.16
Testing:	$0.00	$0.00	$0.00	$0.00
Total:	$528,703.62	-$125,035.50	$653,739.12	$63,017.16
Contingency	$0.00		$0.00	$0.00

Underground piping coordinates were completed by City staff and given to the Contractor.
The Contractor mobilized on May 22 and has begun their dirt work. Underground drainage is in progress. Pavement demolition has started.

Capital Projects Monthly Report
June 2018

2013 Street Bond Projects – Round 1
GO1509, GO1510, GO1511 & GO1512

Project Manager:		Tuan Nguyen		
Project Funding Source:		*2013 Street Bond Program and FY2016 Street Funds*		
Approved Project Budget:		*$2,869,162.38*		
Approved Change Orders:		*$60,624.41*		
Estimated Completion:		*August 2017*		
Project Status:		*Under Construction*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$221,698.00	$0.00	$221,698.00	$214,098.08
Construction:	$2,460,424.38	$67,936.91	$2,528,361.29	$2,444,445.84
Miscellaneous:	$15,000.00	$7,312.50	$7,687.50	$7,687.50
Testing:	$64,040.00	$0.00	$64,040.00	$52,854.50
Total:	$2,761,162.38	$60,624.41	$2,891,078.33	$2,719,085.92
Contingency:	$123,000.00		$49,906.62	$73,093.38

Project is completed. The project was accepted by City Council at the November 2017 meeting. No change since last report.

Woodlawn Avenue Reconstruction
GO1516

Project Manager:		Tuan Nguyen		
Project Funding Source:		*2013 Street Bond Program*		
Approved Project Budget:		*$569,000.00*		
Approved Change Orders:		*$0.00*		
Estimated Completion:		*N/A*		
Project Status:		*In Design*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$81,710.00	$0.00	$81,710.00	$77,210.00
Construction:	$453,682.30	$0.00	$453,682.30	$426,693.92
Miscellaneous:	$0.00	$0.00	$0.00	$0.00
Testing:	$0.00	$0.00	$0.00	$0.00
Total:	$535,392.30	$0.00	$535,392.30	$503,903.92
Contingency:				

Project is completed. The project was accepted by City Council at the November 2017 meeting. No change since last report.

Capital Projects Monthly Report
June 2018

II. CITY COUNCIL'S PRIORITY PROJECTS

1776 Park Improvements
PK0052

Project Manager:		James Toney		
Project Funding Source:		*PDO*		
Approved Project Budget:		*$31,000.00*		
Approved Change Orders:		*$0.00*		
Estimated Completion:		*N/A*		
Project Status:		*Project Planning*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:				
Construction:				
Miscellaneous:				
Testing:				
Total:				
Contingency				

Parks and Recreation Department is working with the Rotary Club and Galveston County Consolidated Drainage District) GCCDD on installing a canoe launch at this park.

Activity Center Feasibility Study
8AB452

Project Manager:		Rick Watkins		
Project Funding Source:		*General Fund Balance:*		
Approved Project Budget:		*$5,000.00*		
Approved Change Orders:		*$0.00*		
Estimated Completion:		*October 2017*		
Project Status:		*In Review*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Total:	$5,000.00	$0.00	$5,000.00	$5,000.00

Joiner Architect gave their presentation of the feasibility study findings and recommendations to the City of Friendswood staff and City Council at the August 7, 2017 council meeting. No change since the last report.

Capital Projects Monthly Report
June 2018

Blackhawk Boulevard Phase II
GO1515

Project Manager:		Rick Watkins		
Project Funding Source:		*2013 Street Bonds Phase III*		
Approved Project Budget:		*$5,582,547.95*		
Approved Change Orders:		*$0.00*		
Estimated Completion:				
Project Status:		*Under Design*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$849,168.95	$0.00	$849,168.95	$719,727.61
Construction:	$4,580,886.90	$0.00	$4,580,886.90	$0.00
Miscellaneous:	$1,951.00	$0.00	$1,951.00	$1,951.00
Testing:	$0.00	$0.00	$0.00	$0.00
Total:	$5,432,006.85	$0.00	$5,432,006.85	$721,678.61
Contingency	$0.00		$0.00	$0.00

The preconstruction meeting was held on May 3, 2018 at 2:00 pm. The contractor was given the NTP letter for a June 4, 2018 start date but has been delayed by heavy rains. The contractor continues to work on submittals and other required documents. The contractor started working on installing the traffic control but the rain has delayed that work some. We are hoping to start the breaking up of the concrete streets and the demo of the concrete before the end of the month weather permitting.

III. Water & Sewer Bond Projects

Water Plant #2 Replacement
UW0017

Project Manager:		Tuan Nguyen		
Project Funding Source:		*Water & Sewer Working Capital*		
Approved Project Budget:		*$1,414,032.00*		
Approved Change Orders:		*-$17,500.00*		
Estimated Completion:				
Project Status:		*One-Year Maintenance Period*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$108,540.00	$0.00	$108,540.00	$104,784.98
Construction:	$1,229,000.00	-$17,500.00	$1,211,500.00	$923,820.85
Miscellaneous:	$0.00	$0.00	$0.00	$0.00
Testing:	$15,042.00	$0.00	$15,042.00	$9,104.00
Total:	$1,352,582.00	-$17,500.00	$1,370,082.00	$1,037,709.83
Contingency	$61,450.00		$61,450.00	$0.00

Project is complete however no longer operational due to events from Hurricane Harvey. The City is working with FEMA officials under Emergency Protective Measures to rehabilitate/fix the damages sustained.

Capital Projects Monthly Report

June 2018

Lift Station #18 Replacement
USL018

Project Manager:		Tuan Nguyen		
Project Funding Source:		*Water & Sewer Working Capital*		
Approved Project Budget:		*$500,000.00*		
Approved Change Orders:		*$23,955.60*		
Estimated Completion:		*September 2017*		
Project Status:		*One-Year Maintenance Period*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$86,390.00	$0.00	$86,390.00	$86,390.00
Construction:	$815,155.60	$23,955.60	$839,111.20	$839,111.20
Miscellaneous:	$825.00	$0.00	$825.00	$825.00
Testing:	$8,889.00	$0.00	$8,889.00	$2,562.32
Total:	$911,259.60	$23,955.60	$943,304.00	$928,888.52
Contingency	$15,000.00		$15,000.00	$0.00

Lift station was accepted by Council at the September 11, 2017 meeting. No change since last report.

Lift Station #23 Replacement
WS1601

Project Manager:		*Public Works Staff*		
Project Funding Source:		*Water and Sewer Working Capital*		
Approved Project Budget:				
Approved Change Orders:				
Estimated Completion:				
Project Status:		*In Design*		
	Original Contract Amount	**Approved Change Orders**	**New Contract Amount**	**Amount Expended**
Design:	$158,800.00	$0.00	$158,800.00	$66,099.80
Construction:	$0.00	$0.00	$0.00	$0.00
Miscellaneous:	$55,540.00	$0.00	$55,540.00	$55,540.00
Testing:	$0.00	$0.00	$0.00	$0.00
Total:	$214,340.00	$0.00	$214,340.00	$121,639.80
Contingency				

A Design contract was awarded during the February Council meeting. Lockwood, Andrews, and Newman were awarded the contract and have started the basic design of the Lift Station #23. As a component of design, an issue has arisen in regard to our ability to reuse the existing force main. TCEQ regulations may impact the use of the existing force main, requiring the installation of a new, smaller one. Staff is continuing to work with LAN on the design changes. Staff is working with individual contractors for an in-depth evaluation of the wet well. Staff held a Pre-Con/Coordination meeting on January 23. Inspection of the wet well occurred on February 14, 2018, the finalized report has been received and being reviewed. City staff met with LAN to discuss the best method to proceed on the project last week. Once a plan is agreed upon, design plans will resume.

IV. RESIDENTIAL DEVELOPMENTS

Arbor Gate Section #6 – Utilities
All testing has passed and awaiting final walkthrough for acceptance. Substantial completion walk-thru completed awaiting completion of punch list for acceptance. Project is complete awaiting completion of project documents before acceptance. City Council approved acceptance on May 7, 2018.

Arbor Gate Section #6 – Paving
Paving complete awaiting final walkthrough for acceptance. Substantial completion walk-thru completed awaiting completion of punch list for acceptance. Project is complete awaiting completion of project documents before acceptance. City Council approved acceptance on May 7, 2018.

Friendswood Lakes Blvd – Paving/Utilities
All paving and utilities installed, finalizing second stage of inlets and dressing. Substantial completion walk-thru was held February 21, contractor is currently working to complete the punch list. City Council approved acceptance on May 7, 2018.

Sterling Creek Section #3
Council Acceptance September 11, 2017. No change since last report.

Friendswood Trails – Paving/Utilities
A preconstruction meeting was held September 25, 2017. The general contractor is Angel Brothers. Utilities, dirt, paving, and testing crews all on site. Utilities are complete and going through testing. Paving is completed. All utilities tested. Minor grade work and second stage items still outstanding.

V. COMMERCIAL DEVELOPMENTS

The Beldon Senior Apartments
A pre-construction meeting for the section was held January 10, 2017. The general contractor is David Wight Construction the testing lab is Coastal Labs. Bac T's completed, minor sanitary sewer testing still pending. No change since last report.

VI. ADMINISTRATIVE & IN-HOUSE PROJECTS

Crawford Ditch Evaluation – 100% upload of data, reviewing and finalizing details.

Technical Specifications – Reviewing current Specifications.

Sign Policy – Finished and on the Website.

Capital Improvements Program - Revised Capital Improvements Program Manual approved and on the website.

Design Criteria - Revised Design Criteria Manual and on the website.

Capital Projects Monthly Report
June 2018

Right of Way Permits Approved:

2018-48 – FM 518 & Willowick Ave - MCI

Ordinance 300's:
Due to Hurricane Harvey and damage to the equipment, the traffic studies are running behind. New traffic counters and charge have been ordered and should be here next week.

Ordinance 300 Requests – Approved
2018-02 – Make One Way between pool and City hall parking lot 2 way traffic
2017-32 – Emergency Signage at the Harold Whitaker Drive

Ordinance 300 Requests – Disapproved
2017-07 – Morningside Drive – No Through Trucks
2017-25 – Cedarwood Rd at Stonesthrow – Multiple Stop Signs
2017-23 – Paint Rock Road – Excessive Speeding
2017-24 – W. Castlewood – Excessive Speeding
2017-25 – Cedarwood Drive – All Way Stop
2017-30 – Blackhawk Boulevard – Speeding
2017-31 – Austin Chase 2 – Excessive Speeding

Ordinance 300 Requests – Information sent
2017-09 – Peridot Lane – Speed Bumps
2017-17 – Friendswood Lakes Boulevard – Radar Signs

Ordinance 300 Requests – Pending
2017-04 – W. Edgewood Drive (FM 2351) – Speeding
2017-15 – Park Water Drive – No Parking
2017-16 – Winding Way & Leisure Lane – Traffic Signals
2017 21 – Forest Bend Avenue – Sight distance
2017-27 – Sunmeadows – Excessive Speeding
2017-28 – Briarmeadow – Cline Traffic
2018-06 – Briarmeadow – Stop Sign Clarity
2018-15 – Moore Road – Excessive Speeding
2018-16 – W. Spreading Oaks Avenue – Excessive Speeding
2018-17 – Greenbriar @ W. Castlewood – Multiple Stop Signs
2018-18 – Pine Drive – Install delineators
2018-19 – Falcon Ridge – Excessive Speeding
2018-20 – Cedarwood Drive – Excessive Speeding

Ordinance 300 Requests – Waiting Requestor Response
2016-10 – Linson Lane – Dead End sign
2016-16 – Galloway School – Flashing Lights and Crosswalk
2016-18 – Wilderness Trails Subdivision – Excessive Speeding
2017-01 – Dominion Court – No Exit/Dead End

Ordinance 300 Requests – Waiting TxDOT Response
2017-10 – Annalea – Traffic Signal
2018-03 – Request left turn Bay on South FM 518 to Magnolia Avenue
2018-07 – Bay Area Boulevard – Change Traffic Patterns

2018-08 – FM 2351 – Change Traffic Patterns
2018-09 – FM 2351 & FM 518 – Change Traffic Patterns
2018-10 – FM 2351 – Change Traffic Patterns
2018-11 – FM 528 – Change Traffic Patterns
2018-12 – FM 528 – Change Traffic Patterns
2018-13 – FM 528 & Sunset – Change Traffic Patterns
2018-14 – FM 528 & Briarmeadow – Change Traffic Patterns

Ordinance 300 Requests – Work Order – No 300 needed
2017-18 – Friendswood Lakes Boulevard – Change Speed Limit Signs
2017-29 – City Limit Sign on Bay Area Boulevard

VII. ONE-YEAR MAINTENANCE EXPIRATION

PROJECT	DATE
Arbor Gate Section 1*	February 2, 2018
Sterling Creek Section 3	August 8, 2018
Lift Station 18	September 11, 2018
Arbor Gate Section 2	October 2, 2018
2013 Street Bond Project	November 6, 2018
Woodlawn	November 6, 2018
Arbor Gate Section 5	November 6, 2018
Arbor Gate Section 6	May 7, 2019
Friendswood Lakes Boulevard	May 7, 2019

*A few punch list items left to complete.

Seven-Year Plan Round 1	
Project	**Est. Capital Cost**
Prop 1 - Public Safety	
Design - Expansion of Station 4 & New Station at PSB	$ 484,500
Prop 2 - Library	
Library Expansion	$ 2,525,000
Prop 3 - Parks	
Centennial Park Improvements	$ 750,000
Expansion of Existing Parks*	$ 1,400,000
Lake Friendswood	$ 500,000
Sportspark Improvements	$ 1,718,000
Stevenson Park Improvements	$ 246,500
Prop 4 - Streets	
Mary Ann Dr	$ 549,000
Shadowbend Ave	$ 393,000
Townes Road	$ 273,000
Winding Road	$ 642,000
Totals Round 1	**$ 9,481,000**

Seven-Year Plan Round 2	
Project	**Est. Capital Cost**
Prop 1 - Public Safety	
Construction of Station 4 Expansion & New Station at PSB	$ 6,100,000
Prop 3 - Parks	
Improvements - Other Parks	$ 670,500
New Parkland*	$ 2,000,000
Totals Round 2	**$ 8,770,500**

Seven-Year Plan Round 3	
Project	**Est. Capital Cost**
Prop 4 - Streets	
Blackhawk Blvd	$ 5,453,000
Woodlawn Dr	$ 400,000
Totals Round 3	**$ 5,853,000**

* Actual cost of new parkland will vary

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 07/02/18

Date Submitted: 06/26/2018 Dept. Clearances: KRH

Prepared by: Katina Hampton

Subject: Distinguished Budget Presentation Award

Originating Department: ASO City Attorney Review: N/A

Proceeding: Special Recognition

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The City of Friendswood has received the Government Finance Officers Association's Distinguished Budget Presentation Award for the Fiscal Year 2017-18 budget. The award represents a significant achievement by the City. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the City had to satisfy nationally recognized guidelines for effective budget presentation. Budget documents must be rated "proficient" by serving as 1) a policy document, 2) a financial plan, 3) an operations guide and 4) a communications device.

This is the fifteenth consecutive year the City has received this award and the City's first Operations Guide Special Performance Measures Recognition.

We would like to recognize the efforts of Katina Hampton (Director of Administrative Services), Rhonda Bloskas (Deputy Director of Administrative Services – Finance) and Jennifer Walker (Budget Manager). We would also like to recognize and thank the Budget Team, the Accounting staff, the entire Administrative Services Department. Their cumulative efforts enabled us to reach this achievement.

Allena Portis, Finance Director for the City of League City and Secretary of the Gulf Coast Government Finance Officers Association will present the award.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

RECOMMENDATIONS

ATTACHMENTS

Notification Letter
Press Release document

Government Finance Officers Association
203 North LaSalle Street, Suite 2700
Chicago, Illinois 60601-1210
312.977.9700 *fax:* 312.977.4806

April 9, 2018

Rhonda Bloskas
Deputy Director of Administrative Services-Finance
City of Friendswood
910 South Friendswood Drive
Friendswood, TX 77546

Dear Ms. Bloskas:

We are pleased to inform you, based on the examination of your budget document by a panel of independent reviewers, that your budget document has been awarded the Distinguished Budget Presentation Award from Government Finance Officers Association (GFOA) for the current fiscal period. This award is the highest form of recognition in governmental budgeting. Its attainment represents a significant achievement by your organization.

The Distinguished Budget Presentation Award is valid for one year. To continue your participation in the program, it will be necessary to submit your next annual budget document to GFOA within 90 days of the proposed budget's submission to the legislature or within 90 days of the budget's final adoption. A Distinguished Budget Program application is posted on GFOA's website. This application must be completed and accompany your next submission. (See numbers 12 and 13 on page 2 of the application for fee information and submission instructions.)

Each program participant is provided with confidential comments and suggestions for possible improvements to the budget document. Your comments are enclosed. We urge you to carefully consider the suggestions offered by our reviewers as you prepare your next budget.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual(s) or department designated as being primarily responsible for its having achieved the award. Enclosed is a Certificate of Recognition for Budget Preparation for:

Finance Department

Continuing participants will find a brass medallion enclosed with these results. First-time recipients will receive an award plaque that will be mailed separately and should arrive within eight to ten weeks. Also enclosed is a camera-ready reproduction of the award for inclusion in your next budget. If you reproduce the camera-ready image in your next budget, it should be accompanied by a statement indicating continued compliance with program criteria.

The following standardized text should be used:

Washington, DC Office
Federal Liaison Center, 660 North Capitol Street, NW, Suite 410 • Washington, DC 20001 • 202.393.8020 *fax:* 202.393.0780
www.gfoa.org

Government Finance Officers Association
203 North LaSalle Street, Suite 2700
Chicago, Illinois 60601-1210
312.977.9700 *fax:* 312.977.4806

Government Finance Officers Association of the United States and Canada (GFOA) presented a Distinguished Budget Presentation Award to **City of Friendswood, Texas,** for its Annual Budget for the fiscal year beginning **October 1, 2017**. In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, as a financial plan, as an operations guide, and as a communications device.

This award is valid for a period of one year only. We believe our current budget continues to conform to program requirements, and we are submitting it to GFOA to determine its eligibility for another award.

A press release is enclosed.

GFOA encourages you to make arrangements for a formal presentation of the award. If you would like the award to be presented by a member of your state or provincial finance officers association, we can provide the name of a contact person for that group.

We appreciate your participation in this program, and we sincerely hope that your example will encourage others in their efforts to achieve and maintain excellence in governmental budgeting. The most current list of award recipients can be found on GFOA's website at www.gfoa.org. If we can be of further assistance, please contact the Technical Services Center at (312) 977-9700.

Sincerely,

Michele Mark Levine

Michele Mark Levine
Technical Services Center

Enclosure

Government Finance Officers Association
203 North LaSalle Street, Suite 2700
Chicago, Illinois 60601-1210
312.977.9700 *fax:* 312.977.4806

FOR IMMEDIATE RELEASE

April 9, 2018

For more information, contact:

Technical Services Center
Phone: (312) 977-9700
Fax: (312) 977-4806
E-mail: budgetawards@gfoa.org

(Chicago, Illinois)--Government Finance Officers Association is pleased to announce that **City of Friendswood, Texas,** has received GFOA's Distinguished Budget Presentation Award for its budget.

The award represents a significant achievement by the entity. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the entity had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as:

- a policy document
- a financial plan
- an operations guide
- a communications device

Budget documents must be rated "proficient" in all four categories, and in the fourteen mandatory criteria within those categories, to receive the award.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual(s) or department designated as being primarily responsible for having achieved the award. This has been presented to **Finance Department.**

There are over 1,600 participants in the Budget Awards Program. The most recent Budget Award recipients, along with their corresponding budget documents, are posted quarterly on GFOA's website. Award recipients have pioneered efforts to improve the quality of budgeting and provide an excellent example for other governments throughout North America.

Government Finance Officers Association is a major professional association servicing the needs of more than 19,000 appointed and elected local, state, and provincial-level government officials and other finance practitioners. It provides top quality publications, training programs, services, and products designed to enhance the skills and performance of those responsible for government finance policy and management. The association is headquartered in Chicago, Illinois, with offices in Washington D.C.

Community and Economic Development Committee
Annual Report to City Council
July 2, 2018

The following is the CEDC's 2018 Annual Report. During the last year, the committee had nine members including Chair Gary Kay, Vice Chair Marcus Perry, Meg Crowley, Skip Evans, Lorrie Foreman, Pauline Moore, Bill Provenzano, Jennifer Whitley, and Dr. Hilmar Zeissig. Lorrie Foreman resigned, Bill Provenzano and Hilmar Zeissig's terms ended and asked to not be reappointed, and Marcus Perry was appointed to the Planning and Zoning Commission. Committee liaisons during this time were City Councilmember John Scott, Friendswood Chamber of Commerce President Carol Marcantel, as well as representatives from Planning and Zoning and Friendswood and Clear Creek ISD. City staff liaison is Karen Capps

We are working on reorganizing the committee to consist of seven members. Our new City Council liaison is Councilmember Trish Hanks.

The CEDC held nine meetings in 2017, and four so far this year. The following are some of the CEDC's accomplishments and recommendations during the past year.

The CEDC's mission statement: ***The CEDC will actively recruit and retain quality businesses to diversify Friendswood's tax base.***

- Last year in August, the committee recommended and City Council approved a $12,000 economic incentive grant for Rancho Mexican Restaurant to construct a new 5,000 square foot restaurant at 2131 W. Parkwood Avenue on a 1.2 acre pad site at the Fountains of Friendswood. The new $1.2 million restaurant's owner is thirteen-year resident, Tony Nunez. This LiveHereWorkHere business is expected to add over $78,000 of additional property taxes to the City over a ten-year period after expansion as well as additional sales tax revenue. Rancho's new location should open in the next three months.
- Also at the August 2017 meeting, a representative from Coastal Bend Property Development gave an overview of the panhandle area along FM 2351, Beamer Road, and Dixie Farm Road that included information about

the ownership history, location of drill sites, floodway analysis, Beamer Road extension plans and future development timeline. The owner stated that he would request that City Council remove the portion of the proposed Blackhawk Boulevard extension from the City's Major Thoroughfare Plan, which was subsequently recommended by the CEDC and approved by City Council.

- On October 26, 2017, members of the CEDC attended the City's 15th Annual Broker and Developer Day at Timber Creek Golf Club which was held in collaboration with the Friendswood Chamber's Annual Golf tournament. The luncheon event received a $1,500 sponsorship from CenterPoint Energy's Economic Development Department. Karen Capps spoke about business development opportunities in the city and Dan Rucker, President of Coastal Ben Property Development, discussed plans and development opportunities along the FM 2351 and Beamer corridors. There were approximately 35 attendees and 10 who stayed after the workshop to play golf and network.
- In November of last year, the committee recommended and City Council approved a $100,000 economic incentive grant for Tannos Land Holdings III to construct a new four-story, 63,400 square foot building at 505 South Friendswood Drive. The $10 million downtown building recently broke ground and will feature retail and restaurants on the ground floor and office space on the upper floors as well as serve as an employment center for more than 200 persons.

- During the last year, the committee discussed goals and asked the Economic Developer to provide information and analyses regarding the City's economic development efforts which included target markets, business recruitment and retention, marketing, data collection, research, incentives, tax and regulatory environment, real estate inventory, demographics, and participation at tradeshows. As a result of these presentations, committee members decided that in order to support the City's overall efforts, members began attending Chamber ribbon-cutting events, and will refer business owners within their network or circle of influence to relocate their business to the city.
- Chair Gary Kay invited Brett Banfield, President of the Friends of Downtown Friendswood Association, and Ron Cox, President of the Friendswood Downtown Economic Development Corporation, to provide an overview of the purpose and goals of the two different entities.

- In February of this year, the committee reviewed and discussed a map of undeveloped properties in the city to have a better understanding of ownership, zoning, location, and availability of utilities at or near the sites.
- Earlier in May of this year, CEDC members attended the City Economic Development Office sponsored Party on the Patio that was held at the Chamber's office.
- In May, the committee also discussed public relations and awareness regarding economic development and asked Staff to provide a general site criteria requirements to help provide business leads to the City Economic Developer.
- Over the next year, the CEDC looks forward to welcoming two new committee members as well as reviewing municipal grant applications, proposed ordinance changes, policies, and goals that will assist the City in furthering economic development and making Friendswood an economically viable place to live and work.

In conclusion, our role as volunteers is to be an economic development advisory committee to City Council. Thank you.

WEST RANCH MANAGEMENT DISTRICT
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

June 27, 2018

The Honorable Mayor and City Council
City of Friendswood, Texas
910 South Friendswood Drive
Friendswood, Texas 77546

Re: West Ranch Management District

Dear Mayor and Council:

Thank you for the opportunity to update the City of Friendswood ("City") on the status of the West Ranch Management District ("District"). The following information is provided to update the City on accomplishments over the past year and to outline some of the Districts future operations.

Tax Rate

The average sales price in the District is approximately $450K with some homes reaching over $1M. Although the commercial property value has not been realized, the residential property value in the District continues to climb due primarily to new construction. The increase in value has contributed to the Districts ability to decrease the overall tax rate. From 2016 to 2017, the tax rate decreased from $0.55 per $100 valuation to $0.50. Although the financial advisor of the District has not made a recommendation on the 2018 tax rate, we still seem to be on track to reduce the rate to approximately $0.45 per $100 valuation. As previously presented to the City, the District expects the tax rate to level off at the $0.45 rate until the commercial value is realized.

West Ranch Management District
Tax Rate History

Year	Assessed Value	M&O	WS&D Debt Rate	Road Debt Rate	Total Debt Rate	Total Tax Rate
2017	$ 457,360,969	**$ 0.11**	$ 0.31	$ 0.08	**$ 0.39**	**$ 0.50**
2016	$ 394,738,333	**$ 0.09**	$ 0.36	$ 0.10	**$ 0.46**	**$ 0.55**
2015	$ 330,376,059	**$ 0.15**	$ 0.39	$ 0.11	**$ 0.50**	**$ 0.65**
2014	$ 254,346,624	**$ 0.16**	$ 0.34	$ 0.15	**$ 0.49**	**$ 0.65**
2013	$ 202,447,673	**$ 0.15**	$ 0.38	$ 0.12	**$ 0.50**	**$ 0.65**
2012	$ 155,712,544	**$ 0.10**	$ 0.47	$ 0.08	**$ 0.55**	**$ 0.65**
2011	$ 116,386,954	**$ 0.17**	$ 0.38	$ 0.10	**$ 0.48**	**$ 0.65**
2010	$ 93,043,423	**$ 0.65**	$ -	$ -	**$ -**	**$ 0.65**
2009	$ 74,262,774	**$ 0.65**	$ -	$ -	**$ -**	**$ 0.65**
2008	$ 47,663,107	**$ 0.65**	$ -	$ -	**$ -**	**$ 0.65**
2007	$ 11,485,060	**$ 0.65**	$ -	$ -	**$ -**	**$ 0.65**
2006	$ 6,239,320	**$ 0.65**	$ -	$ -	**$ -**	**$ 0.65**
2005	$ 3,600,530	**$ 0.65**	$ -	$ -	**$ -**	**$ 0.65**

Commercial Property

Commercial development options remain for 45 +/- acres near the intersection of FM 518 and West Boulevard as well as an additional 13 +/- acres near the intersection of West Boulevard and Friendswood Lakes Boulevard.

Although the District's residential construction component is winding down, the District remains in a strong position to help the City attract commercial development to the District.

Completed Projects

- All detention ponds within the boundaries of the District are complete.
- All road major road projects planned to be within the boundaries of the District are complete. Those projects include Falcon Lakes boulevard, West Boulevard, and Friendswood Lakes Boulevard.
- Lake Friendswood Park and Pavilion is complete.

Status of Development (Provided by Friendswood Development Company)

- The development of all 27 residential sections are complete.

- 88% of the residential homes are occupied. (1110 of 1257 home sites have completed homes)
- Homebuilding is currently under construction in Arbor Gate 2, 3, 5 and 6.
- Homebuilding is expected to be complete by 4Q19.

Five-Year Plan

The developer, Friendswood Development Company, has completed the construction of all residential sections and only the commercial component of West Ranch ("Community") remains. With that in mind, in early 2018 the board of director's set a goal to establish a five-year maintenance and project plan for the District. The five-year plan is necessary for the District and the Community to maintain the high level of standards the development has achieved and to continue those standards for many years to come. The two main areas the District has focused on in the five-year plan are maintenance of District facilities and potential future projects.

The District has established maintenance criteria and maintenance programs on all District owned facilities including drainage channels, detention facilities and outfall structures. The District worked with the District Engineer and contractors to establish budget line items needed for current and future years.

Future projects have also been a focus of the Districts five-year plan. Although the District has not finalized the exact project list, the board of directors of the District is targeting several projects. Some of the potential larger scale projects include conversion of the District's earthen outfalls to concrete storm sewers and conversion of detention/amenity earthen slopes to concrete hard edges. Smaller scale projects may include re-building of the fishing pier on Chigger Creek and enhanced greenbelt trails throughout the District.

Sincerely,
West Ranch Management District

By: _____
Brian Gibson, President
Board of Directors

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 02, 2018

Date Submitted: June 27, 2018 Dept. Clearances: Melinda Welsh

Prepared by: Susan Ballard/Mayor Foreman

Subject: Appointments/Reappointments to the Community and Economic Development Committee, Construction Board of Adjustment & Appeals, Library Board and Zoning Board of Adjustment & Appeals

Originating Department: M & C

Proceeding: Discussion and Possible Action
(I.E. Special Session, Discussion and Possible Action (contracts, agreements, appointments, directives), Resolution, Ordinance, Communication from Mayor/Council, Consent Agenda)

Degree of importance: Critical ☐ Significant ☒ Elective ☐

SUMMARY / ORIGINATING CAUSE

Mayor Foreman endorses the following appointments/reappointments as recommended by:

Council Liaison Trish Hanks: **Community and Economic Development Committee** – Appoint Blaise Guzzetta to replace Marcus Perry who resigned with a term expiring July 2021; appoint Mike Hickey to replace Dr. Hilmar Zeissig who resigned with a term expiring July 2021; reappoint members Skip Evans and Meg Crowley to 3 year terms expiring July 2021.

Construction Board of Adjustments & Appeals – Appoint Billy Mendoza to a 3 year term to replace Chris Brown who resigned with a term expiring July 2021; appoint Les French to a 3 year term to replace Arthur Triplette (deceased) with a term expiring July 2021; appoint Randy Weisinger to a 3 year term expiring July 2021; reappoint members Terry McHugh, Monique Hammett, Faye Ray, and Rajni Amin to 3 year terms expiring July 2021.

Council Liaison Steve Rockey: **Library Board** – Reappoint members Mike Czarowitz, Elizabeth Stacy and Ted Thomas to 3 year terms expiring July 2021.

Council Liaison Steve Rockey: **Zoning Board of Adjustment & Appeals** – Reappoint members David O'Brien III, Ronald Dyer, Mike Czarowitz, and alternate members Linda Thornton, Glen Grayban and Jason Byers to 2 year terms expiring July 2020.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Mayor Foreman recommends Council consider approving the appointments/reappointments to the above committees.

ASSOCIATED COSTS / FUNDING SOURCE

N/A

ATTACHMENTS

Blaise Guzzetta Volunteer Application
Mike Hickey Volunteer Application
Skip Evans Volunteer Application
Meg Crowley Volunteer Application
Billy Mendoza Volunteer Application
Les French Volunteer Application
Randy Weisinger Volunteer Application
Terry McHugh Volunteer Application
Monique Hammett Volunteer Application
Faye Raye Volunteer Application
Rajni Amin Volunteer Application
Elizabeth Stacy Volunteer Application
Ted Thomas Volunteer Application
David O'Brien III Volunteer Application
Ronald Dyer Volunteer Application
Mike Czarowitz Volunteer Application
Linda Thornton Volunteer Application
Glen Grayban Volunteer Application
Jason Byers Volunteer Application

Note: Attach additional backup information considered necessary
to convey all the facts of the issue to be considered.

Copy- Mayor and Councilmembers, City Manager, City Secretary, all affected departments

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: BLAISE A. GUZZETTA

HOME PHONE: 281-482-6247

HOME ADDRESS: 1306 EAGLE LAKES DRIVE

WORK PHONE: 281-652-3231

EMAIL ADDRESS: blaise@gbsonline.com

CELL PHONE: 713-818-5006

OCCUPATION: Broker, Insurance Agent, GA.

SPECIAL INTERESTS AND TALENTS: _____

Are you currently serving as a member of any Friendswood governmental body? No

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_____ DAYTIME
_____ EVENING
_____ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY
_____ VOLUNTEER FIRE DEPT./EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 12-7-48
SEX: M
FRIENDSWOOD RESIDENT FOR 40 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?

Please list any civic or community endeavors in which you have been involved:
FISD & PISD - Community Board / FCC Board

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Blaine A Duzetto
Signature of Applicant

5-24-17
Date

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*
_____	_____
_____	_____
_____	_____
_____	_____

PERSONAL REFERENCES:

Please list at least two references.

NAME: _____

ADDRESS: _____

PHONE: _____

NAME: _____

ADDRESS: _____

PHONE: _____

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: MIKE HICKEY HOME PHONE: _____

HOME ADDRESS: 201 MONTE BELLO DR. WORK PHONE: 713 640 2025

EMAIL ADDRESS: mchickey@texasgeneral.com CELL PHONE: 281 455 7050

OCCUPATION: GENERAL CONTRACTOR

SPECIAL INTERESTS AND TALENTS: _____

Are you currently serving as a member of any Friendswood governmental body? NO

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
_____ ELECTION WORKER

PLANNING & PRESERVATION
_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_*_ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE

RECREATION
_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY

EDUCATION
_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
_____
*Downtown EDC

I AM AVAILABLE FOR
_____ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_____ DAYTIME
_____ EVENING
_____ SUMMER

OTHER
_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY
_____ VOLUNTEER FIRE DEPT./EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 8-28-49
SEX: M
FRIENDSWOOD RESIDENT FOR 39 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
OWNED 7 PROPERTIES IN CITY - DESIGNED AND MANAGED CONSTRUCTION OF FRIENDSWOOD COMMUNITY CHURCH - WWW.TEXASGENERAL.COM

Please list any civic or community endeavors in which you have been involved:
TREASURER FOR LAST FISD BOND
FOUNDING PRESIDENT of FISD EDUCATIONAL FOUNDATION

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant: Michael Hickey

Date: 6/6/16

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*

PERSONAL REFERENCES:

Please list at least two references.

NAME: TRISH HANKS
ADDRESS: SUPERINTENDENT FISD
PHONE: 281 482 1267

NAME: ALLAN RASMUSSEN
ADDRESS: HOMETOWN BANK, FRNDWD
PHONE: 281 996 4900

Karen Capps

Appointed to CEDC 1-09

DEC 2008
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Donald Q. Evans "Skip" HOME PHONE: 281-996-9050

ADDRESS: 1812 Hunt Dr. WORK PHONE: 281-216-0432

OCCUPATION: Retired

SPECIAL INTERESTS AND TALENTS: Sports, Photography, Travel

Are you currently serving as a member of any Friendswood governmental body? No

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
_____ ELECTION DAY POLL WORKER
_____ SUPPORT STAFF

PLANNING & PRESERVATION
_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT
_____ COMMUNITY APPEARANCE BOARD
_X_ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS

I AM AVAILABLE FOR
_X_ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_X_ DAYTIME
_X_ EVENING
_X_ SUMMER

RECREATION
_____ PARKS & RECREATION BOARD
_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY

EDUCATION
_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
_____
_____

OTHER
_____ VOLUNTEER FIRE DEPT./EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

***Interviews may be conducted**

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Giving this information is voluntary.

DATE OF BIRTH: 6/4/42
SEX: M
FRIENDSWOOD RESIDENT FOR 27 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
35 Years Experience in health care, Last 16 Years in managed care contracting.

Please list any civic or community endeavors in which you have been involved:
Eagles Point Architectural Control Committee

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant

12/11/08
Date

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this form to the address below regardless of whether or not you are able to serve on a board or commission at this time:

DELORIS MCKENZIE
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

Your name has been suggested or you have requested an application for possible service on a City of Friendswood Board or Commission.

Please specify on which Board(s) or Commission(s) you wish to serve. (See the attached list). Community + Economic Development

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*

THIS INFORMATION WILL BECOME PUBLIC RECORD

NAME: Evans (Last) Donald (First) Q. (M.I.)

HOME ADDRESS: 1812 Hunt Drive

HOME TELEPHONE: 281-996-9050

PROFESSION: Medical Sales + Management

BUSINESS NAME & ADDRESS: Retired from Bausch + Lomb after 35 years in Eye Care Profession

PERSONAL REFERENCES:
Please list at least two references.

NAME: Blaise Guzzetta
ADDRESS: 1306 Eaglebakes
PHONE: 281-482-6247

NAME: Mike Hickey
ADDRESS: 200 Castlewood
PHONE: 281-482-9792

CC: M & CC
CITY MGR

Morad Kabiri, CMO
Karen Capps, CMO

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Meg Crowley HOME PHONE: 281-922-4884

HOME ADDRESS: 403 Fieldcreek Drive WORK PHONE: 281-922-4884

EMAIL ADDRESS: megcrowley@comcast.net CELL PHONE: 713-385-4476

OCCUPATION: Co-owner Talent Ad Group

SPECIAL INTERESTS AND TALENTS: _____

Are you currently serving as a member of any Friendswood governmental body? No

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
_____ ELECTION WORKER

PLANNING & PRESERVATION
_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE

I AM AVAILABLE FOR
_____ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_____ DAYTIME
_____ EVENING
_____ SUMMER

RECREATION
_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY

EDUCATION
_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
_____
_____

OTHER
_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY
_____ VOLUNTEER FIRE DEPT./EMS
_____ CHARTER REVIEW (AS NEEDED)
✓ Downtown EDC

Please use the reverse side for additional comments.

Revised 01/20/16 SYB

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 4/9/63
SEX: F
FRIENDSWOOD RESIDENT FOR 3½ YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
I have been a small business owner for over 10 years. As a Group Account Director with International Advertising agencies I was a project manager, maintaining and managing multi Million Dollar budgets. I have volunteered with a variety of boards and created many new programs and projects

Please list any civic or community endeavors in which you have been involved: Past President and board member of CCFA, Past President and board member St. Helen Catholic School Board. Member of Friendswood Historical Society and Docent at the Brown Museum. Board Member of EDFA
- Please see attached resume

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant

Date June 7, 2016

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

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2016 JUN -8 AM 11:26
CITY OF FRIENDSWOOD
CITY SECRETARY

Revised 01/20/16 SYB

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*

PERSONAL REFERENCES:

Please list at least two references.

NAME: Selena Ellis
ADDRESS: 1105 Cowards Creek Dr.
PHONE: 281-380-4199

NAME: Fleta Hill
ADDRESS: P.O. Box 497, 77549
PHONE: 713-806-8161

Ann & Harold Whitaker
915 Falling Leaf
281-482-2290

Meg Stow Crowley

403 Fieldcreek Drive
Friendswood, TX 77546

Home Office: 281.922.4994
megcrowley@comcast.net

SKILLS: Extensive experience in account management, brand development, program development and implementation; public relations, sales and creative presentation; special event planning; small and large scale promotion development; market plan development, budget management; print and broadcast writing.

EXPERIENCE

TALENT AD GROUP (2006 – Present)

Senior Partner & Co-Founder Specialize in advertising, marketing, brand development, public relations, strategy development and executive recruitment for advertising agencies and public relations firms. Responsible for management of client relationships, account management, new business and oversee all administrative and financial duties of the firm.

DONER ADVERTISING (1999 – 2002)

Group Account Director Direct advertising activities for BLOCKBUSTER's New Media Division and main agency contact for multiple departments. Responsible for the launch of Online Rental and Video on Demand programs. Additionally, direct the agency activities for eCRM, CRM, International Non-Europe, BLOCKBUSTER TICKET only on DirecTV and FREEBIE. Establish and grow positive client relations at all levels. Initiate strategic development process for all areas of responsibility. Daily interaction with agency creative, media, interactive, direct and research departments. No current direct reports, but responsible for knowledge and aid in the development of support staff in Detroit office and development of junior members of the client team.

Group Account Director Manage $20 million advertising and marketing budget for Mazda's Western Region. Coordinate media placement and maintain monthly advertising spending and TRP efficiency. Manage and coordinate all marketing and promotional activities for. Develop and maintain client relations with Mazda Western Region and 165 dealers. Supervise other account personnel in the Doner Newport Beach, CA office. Work with Mazda North America and Doner National Account Team to test national programs and products for U.S. Hired June 1999 as Account Supervisor and promoted to Group Account Director April 2000.

RUBIN POSTAER & ASSOCIATES (1998 – 1999)

Account Supervisor Honda Regional Marketing Develop strategic marketing plans and strategies. Coordinate Interdepartmental agency functions, media planning, account planning, creative and production. Supervise commercial shoots for Central Region. Build and maintain positive client relations with Honda zone management, district management and 83 dealers. Supervise other account personnel in regional office.

AUTONATION USA (1997-1998)

Regional Marketing Manager Manage all marketing activities within Central Region including local, regional and national promotions, local advertising, sponsorship requests, new store grand openings, publicity. Oversaw development of Community Marketing programs for 8 store Region. Direct activities of six District Marketing Representatives and interface with Corporate Marketing, Advertising and Promotion Departments, advertising agency and public relation firms. Solicit and develop relationships with the business community to develop and manage business-to-business marketing efforts.

Meg Stow Crowley

403 Fieldcreek Drive
Friendswood, TX 77546

Home Office: 281.922.4994
megcrowley@comcast.net

ETD ENTERTAINMENT DISTRIBUTING (1989 – 1996)

National Account Manager Designed implemented and maintained a magazine and book program for 3,000 Blockbuster Video Stores in North America. Coordinated purchasing and distribution of magazines, books and licensed goods products for all stores. Maintained relationships with Blockbuster Entertainment management, 17 U.S. and 2 Canadian distribution centers, publishers and vendors. Create and implement in-store promotional events for stores located in the U.S.

General Merchandise Buyer Managed General Merchandise Department within Magazine and Book Division. Sought out new products for Account Executives to solicit and sell into local and national retail chains. Designed special promotions for large chain stores and sales incentive programs for staff. The General Merchandise Department exceeded budged sales expectations by more than 30%.

Account Executive Managed three national accounts and 13 million dollars in annual trade revenues from regional grocery, convenience and specialty stores. Sold new products and programs to buyers. Planned and executed large scale trade promotion programs. Managed 26 person in-store merchandising group. Introduced new products and POS to chains and retailers. Coordinated and oversaw several sizable promotional events.

HOUSTON ASSOCIATION OF REALTORS (1987-1989)

Public Affairs Director Oversaw Membership, Public Relations and Political/Governmental Affairs. Conducted New Member Orientation Programs (average 100 – 150 people each). Negotiated benefits package for membership of more than 11,000. Scheduled and coordinated official meetings and receptions in Washington, D.C., Houston and Austin, Texas. Arranged interviews with media. Supervised and managed sales of association video production programs.

COSTA CRUISES, INC. (1986 – six month contract)

On-Board Cruise Consultant Resided onboard ssCosta Riviera. Developed and implemented on-board marketing and public relations. Managed passenger service requirements and concerns. Attended all Passenger social functions to maintain high enjoyment level.

FIRST CONTINENTAL NATIONAL BANK / INTERFIRST BANK, N.A. (1984-1986)

Marketing Officer Coordinated Public Relations and Business Development for regional Texas bank. Solicited new accounts in addition to maintenance on existing accounts. Planned and coordinated all business development functions.

Assistant Marketing Director Generated statistical reports, tracked old and new funds and customers. Planned and coordinated all business development social functions.

SAN FELIPE NATIONAL BANK (1979-1984)

Paying and Receiving Teller Worked in the drive through and lobby through high school (Distributive Education), Holidays and summers.

RIVES SMITH BALDWIN & CARLBERG, Y & R (summer 1984)

Advertising Internship Trained in media, traffic, creative and account management.

Meg Stow Crowley

403 Fieldcreek Drive
Friendswood, TX 77546

Home Office: 281.922.4994
megcrowley@comcast.net

EDUCATION

HOUSTON BAPTIST UNIVERSITY
Majors: Marketing and Management — Houston, Texas

THE UNIVERSITY OF TEXAS
Major: Broadcast Journalism — Austin, Texas

VOLUNTEER EXPERIENCE

Crohn's & Colitis Foundation of America (CCFA) — Houston, Texas
Board Member 1988-1997
Board Member and Communication Chair 2006-2009
Board President 2009 - 2012
Winter Ball, Publicity Chair 2012
Patient Advisory Committee Member 2015 - Current

St. Helen Catholic School — Pearland, Texas
School Board member 2010 - 2015
School Board President 2011 – 2014
Msgr. Braden Dinner Dance Chair 2012 & 2013
Steps for Students Chair 2012

Friends of Downtown Friendswood Association (FDFA) — Friendswood, Texas
Board Member 2015 – present
Marketing and Public Relations Chair 2016 - current
Texas Music Fest, Publicity Co-chair 2016

Event Promotions — Friendswood, Texas
Mike Foreman Friendswood City Council campaign, Publicity Chair 2016
Liberty Dinner, Galveston County GOP, Marketing Chair 2016

Membership
Friends of Downtown Friendswood Association
Friendswood Historic Society
Friendswood Historic Society Docent 2014 - present
Friendswood Republican Woman
Daughters of the American Revolution 2012 - present

Awards
The President's Volunteer Service Award 2013

CC: M & CC

Aubrey Harbin,CDD

JUN 2018
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Billy Mendoza

HOME PHONE: 832-893-6503

HOME ADDRESS: 313 Garden Dr, Friendswood, Tx 77546

WORK PHONE: 281-482-8658

EMAIL ADDRESS: reselectric.billy@gmail.com

CELL PHONE: 832-893-6503

OCCUPATION: Electrical Contractor

SPECIAL INTERESTS AND TALENTS: Educating and mentoring Apprentice Electricians, Leadership, Teambuilding ability to effectively explain practical application of codes and explain electrical terminology, problem solving, financial planning, extensive knowledge of electrical codes, nearly 30yrs experience in construction field.

Are you currently serving as a member of any Friendswood governmental body? No

If so, please name the body: _____

Approved 07/10/17 mkw

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
__X__ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

__X__ LONG-TERM PROJECTS
__X__ SHORT-TERM PROJECTS
_____ DAYTIME
_____ EVENING
_____ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: 7/26/1971
SEX: M
FRIENDSWOOD RESIDENT FOR 21 YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?

Master Electrician x 25yrs and Texas Contractors License, along with ongoing continuing education.

Frequent coordination and working with various other trades.

Previously served as Inspector for City of League City building department

A desire to educate others about electrical code, theory behind the codes and application of the codes.

Please list any civic or community endeavors in which you have been involved:

Previously served as Assistant Coach for youth Upwards Basketball

Served in various areas in my church.

Otherwise, this will be my first time serving/volunteering within the City of Friendswood

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Signature of Applicant

5/24/18
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*

PERSONAL REFERENCES:

Please list at least two references.

NAME: Rick Bertram

ADDRESS: 603 Linson Ln, Friendswood, Tx. 77546

PHONE: (281) 732-8112

NAME: Santos Garza

ADDRESS: 1808 Heather Ln.

PHONE: Alvin, Tx. 77511

CC: M & CC
Aubrey HArbin, CD

RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity ›verning the affairs of the City. Service through membership on a board, commission, or committee is a ılued, important opportunity for participation in an advisory capacity. To these ends, a policy has been lopted that sets out an orderly process for citizens interested in serving as members of a City board, ›mmission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

AME: LES FRENCH

HOME PHONE: SAME

OME ADDRESS: 537 N. HEATHER LN.

WORK PHONE: SAME

MAIL ADDRESS: lesfrench56@gmail.com

CELL PHONE: 281-642-4428

ICCUPATION: CONSTRUCTION SUPERVISOR

PECIAL INTERESTS AND TALENTS:

ıre you currently serving as a member of any Friendswood governmental body? No

'so, please name the body:

Approved 07/10/17 mkw

AREAS OF INTEREST

ease indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
✓ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
✓ SHORT-TERM PROJECTS
✓ DAYTIME
✓ EVENING
_____ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____
_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

Approved 07/10/17 mkw

hese questions are asked because the City Council wants to maintain balance to insure roper representation on boards and commissions.

ATE OF BIRTH: 9-10-54
EX: M
RIENDSWOOD RESIDENT FOR 32 YEARS

lave you been convicted of a crime, other than minor traffic violations in the past 10 years? No

Vhat experience do you have that may qualify you for service on a particular board or commission (i.e. license, egrees, and certificates)?
I HAVE BEEN A CONSTRUCTION SUPERVISOR FOR 39 YEARS IN COMMERCIAL AND RESIDENTIAL BUILDINGS.

Please list any civic or community endeavors in which you have been involved: I WAS INVOLVED IN THE PERRY HOME RESTORATION. SERVED ON THE BOARD OF FRIENDSWOOD GIRLS SOFTBALL ASSOCIATION FOR SIX YEARS.

hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Signature of Applicant

Date 6/1/18

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate ıe Board, Committee or Commission and appropriate dates of service.

ame of Board, Committee or Commission:	*Dates of Service:*

ERSONAL REFERENCES:

Please list at least two references.

NAME: JIMMY BROWN
ADDRESS: 403 LAUREL FRIENDSWOOD
PHONE: 281-914-5209

NAME: BRUCE BURTON
ADDRESS: 1005 THOMAS DR. FRIENDSWOOD
PHONE: 281-468-5132

Approved 07/10/17 mkw

CC: M & CC

Aubrey Harbin, CDD

JUN 2018
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CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

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THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Randy Weisinger HOME PHONE: 281 996 8509

HOME ADDRESS: 208 W. Shadowbend WORK PHONE: _____

EMAIL ADDRESS: Captainscooling@att.net CELL PHONE: 281 924 7898

OCCUPATION: Self. Owners A/C + Appliance Company.

SPECIAL INTERESTS AND TALENTS: _____

Are you currently serving as a member of any Friendswood governmental body? No

If so, please name the body: _____

Approved 07/10/17 mkw

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
__✓__ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

__✓__ LONG-TERM PROJECTS
__✓__ SHORT-TERM PROJECTS
__✓__ DAYTIME
__✓__ EVENING
__✓__ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____
_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: 06/25/1964
SEX: M
FRIENDSWOOD RESIDENT FOR 48+ YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
Hold an HVAC Liscence TACLB00828380
Over 30 hrs experience

Please list any civic or community endeavors in which you have been involved: _____

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Signature of Applicant

6-9-18
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
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CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*

PERSONAL REFERENCES:

Please list at least two references.

NAME: Robert Griffon
ADDRESS: Sunset Dr.
PHONE: 713 248 7729

NAME: John Scott
ADDRESS: 104 Chester
PHONE: 832-499-7121

JUN 2018
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Terrence J. McHugh HOME PHONE: _____

HOME ADDRESS: 706 ALADDIN CT.-Friendswood WORK PHONE: _____

EMAIL ADDRESS: tmchugh99@YAHOO.com CELL PHONE: 832 474 3707

OCCUPATION: retired

SPECIAL INTERESTS AND TALENTS: 35 years in the roofing industry

Are you currently serving as a member of any Friendswood governmental body? CBOA

If so, please name the body: Construction Board of Adjustments

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
_X_ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
_X_ SHORT-TERM PROJECTS
_X_ DAYTIME
_X_ EVENING
_X_ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: MAY 13, 1955
SEX: MALE
FRIENDSWOOD RESIDENT FOR 35 YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)? 35 years in roofing industry as project manager/contractor

Please list any civic or community endeavors in which you have been involved: _____

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Terrence J. McHugh
Signature of Applicant

June 27, 2018
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*
CBOA	1990s to present

PERSONAL REFERENCES:

Please list at least two references.

NAME: David Smith (former mayor)
ADDRESS:
PHONE:

NAME: Tom Burke (former member CBOA)
ADDRESS: TE Burke Construction
PHONE:

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Monique Hammett HOME PHONE: —

HOME ADDRESS: 1581f Bougainvilla Lane WORK PHONE: —

EMAIL ADDRESS: monique hammett@hotmail.com CELL PHONE: 281 850 9463

OCCUPATION: Retired Business Owner

SPECIAL INTERESTS AND TALENTS: Garden, Watch old movies, read history and read mystery's.

Are you currently serving as a member of any Friendswood governmental body? ~~No~~ Yes

If so, please name the body: Board of Adjustment & Appeals

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
✓ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
✓ SHORT-TERM PROJECTS
✓ DAYTIME
_____ EVENING
_____ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____
_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

Friendswood Chamber of Commerce
for 20 years
Served 2 years on Board of Dir.
Started Car Show in 2004

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: 04/05/1946
SEX: F
FRIENDSWOOD RESIDENT FOR 34 YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?

Subcontract negotiator, facility purchasing agent

Please list any civic or community endeavors in which you have been involved:

Several fund raisers
Twenty-five years volunteering for RSPCA

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Morgan Barnett
Signature of Applicant

June 08, 2018
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*

PERSONAL REFERENCES:

Please list at least two references.

NAME: Mary Catherine Sewell
ADDRESS: 108 Brigadoon
PHONE: 832-540-4774

NAME: Sherry Graham
ADDRESS: 15811 Bougainvilla
PHONE: 979-373-1861

CC: Karen Cap
Dan Johnson
Linda Thornton

Appointed to CBOA
Aug 2002

OK

MAR 2002
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

VOLUNTEER APPLICATION

NAME: Jo Faye Curtis

HOME PHONE: 281-996-6164

ADDRESS: 2100 Lina Dr

~~WORK~~ Cell PHONE: 281-798-7205

OCCUPATION: Accountant, Interior Design Consultant + Floral Designer

SPECIAL INTERESTS AND TALENTS: flowergardening, AutoCAD dwgs.

Are you currently serving as a member of any Friendswood governmental body? no

If so, please name the body:

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
- ✓ ELECTION DAY POLL WORKER
- ___ SUPPORT STAFF

PLANNING & PRESERVATION
- ___ PLANNING & ZONING COMMISSION
- ___ ZONING BOARD OF ADJUSTMENT
- ___ COMMUNITY APPEARANCE BOARD
- ✓ COMMUNITY & ECONOMIC DEVELOPMENT
- ___ PIPELINE SAFETY COMMITTEE
- ✓ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS

Primary

I AM AVAILABLE FOR
- ___ LONG-TERM PROJECTS
- ✓ SHORT-TERM PROJECTS
- ✓ DAYTIME
- ✓ EVENING
- ___ SUMMER

to be scheduled
Work from Home

RECREATION
- ___ PARKS & RECREATION BOARD
- ___ 4TH OF JULY STEERING COMMITTEE
- ___ 4TH OF JULY VOLUNTEER
- ___ SENIOR CITIZENS ADVISORY

EDUCATION
- ___ LIBRARY BOARD
- ___ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
- ___
- ___

OTHER
- ___ VOLUNTEER FIRE DEPT./EMS
- ___ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

Your name has been suggested or you have requested an application for possible service on a City of Friendswood Board or Commission.

Please specify on which Board(s) or Commission(s) you wish to serve. (See the attached list). Const. Board of Adj + Appeals

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission: N/A

Dates of Service: N/A

THIS INFORMATION WILL BECOME PUBLIC RECORD

NAME: Curtis (Last) E. (First) Faye (M.I.)

HOME ADDRESS: 2106 Linn Dr

HOME TELEPHONE: 281-996-6164

PROFESSION: Interior Design Consultant

BUSINESS NAME & ADDRESS: Designs by Fae same as home

PERSONAL REFERENCES:
Please list at least two references.

NAME: Diane Piper
ADDRESS: Friendswood
PHONE: 281-996-9046

NAME: Rev. Chuck Schneider
ADDRESS: Dagemont Church
PHONE: 281-481-8770

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Giving this information is voluntary.

DATE OF BIRTH: 11-01-40
SEX: F
FRIENDSWOOD RESIDENT FOR 14 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
Professional Certification in Interior Design & Auto CAD drafting. - Certificates in Accting. + Business.

Please list any civic or community endeavors in which you have been involved:
Board of Directors - Crisis Preg. Ctr - Friend. Dir. of Underprivileged Girls etc. - H Smith, AR
Committee Safeguard - Bldgs - Grounds
Boy Girl Scouts Leader - AR Defoe Ranch
TV ad for non-profit - AR. Work with Bake House Cooking team for fundraiser

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant: [illegible]

Date: 3/21/02

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this form to the address below regardless of whether or not you are able to serve on a board or commission at this time:

DELORIS MCKENZIE
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

MAR 2017
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: RAJNI Amin HOME PHONE: 281-482-2010

HOME ADDRESS: 1007 Pine Hollow Dr WORK PHONE: 281-639-3677 Ce

EMAIL ADDRESS: atec engineers@sbcglobal.net CELL PHONE: 281-639-3677

OCCUPATION: General Contractor & Engineer

SPECIAL INTERESTS AND TALENTS: _____

Are you currently serving as a member of any Friendswood governmental body? _____

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
- ____ ELECTION WORKER

PLANNING & PRESERVATION
- ____ PLANNING & ZONING COMMISSION
- ____ ZONING BOARD OF ADJUSTMENT & APPEALS
- ____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
- (1) ✓ COMMUNITY & ECONOMIC DEVELOPMENT
- ✓ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
- (2) ✓ INVESTMENT COMMITTEE
- ____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR
- ✓ LONG-TERM PROJECTS
- ✓ SHORT-TERM PROJECTS
- ✓ DAYTIME
- ✓ EVENING
- ____ SUMMER

RECREATION
- ____ 4TH OF JULY STEERING COMMITTEE
- ____ 4TH OF JULY VOLUNTEER
- (1) ✓ SENIOR CITIZENS ADVISORY

EDUCATION
- ____ LIBRARY BOARD
- ____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
- _____
- _____

OTHER
- ____ WEST RANCH MANAGEMENT DISTRICT
- ____ ANIMAL SHELTER ADVISORY
- ____ VOLUNTEER FIRE DEPT./EMS
- ____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 5/31/39
SEX: M
FRIENDSWOOD RESIDENT FOR 29 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)? I am the ~~owner~~ President of A-Tec Engineers & Contractor for last 35 years ~~the~~ A-Tec has completed projects park & Ride, Clayton Library, ~~&~~ Fire Fire station for City of Houston of work for most of the School dist of Harris County

Please list any civic or community endeavors in which you have been involved: go to Senior Center

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant

Date 3/23/17

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*
Construction Board of Adjustment Appeal	10 years

PERSONAL REFERENCES:

Please list at least two references.

NAME: Dorthy Montz
ADDRESS: TAH Pine Rd.
PHONE: 281-482-6936

NAME: Ron Jaddidi
ADDRESS: 101 S. Friendswood Dr.
PHONE: 832-876-2574

cc: Mary Perroni

SEP 2012
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Elizabeth Stacy HOME PHONE: 281-482-0475

ADDRESS: 706 Quaker Drive WORK PHONE: _____

OCCUPATION: Retired (IBM - 24 yrs)

SPECIAL INTERESTS AND TALENTS: _____

Are you currently serving as a member of any Friendswood governmental body? No

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
- ✓ ELECTION DAY POLL WORKER
- ✓ SUPPORT STAFF

PLANNING & PRESERVATION
- ___ PLANNING & ZONING COMMISSION
- ___ ZONING BOARD OF ADJUSTMENT
- ___ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
- ___ COMMUNITY & ECONOMIC DEVELOPMENT
- ___ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS

I AM AVAILABLE FOR
- ___ LONG-TERM PROJECTS
- ✓ SHORT-TERM PROJECTS
- ✓ DAYTIME
- ___ EVENING
- ___ SUMMER

RECREATION
- ___ PARKS & RECREATION BOARD
- ___ 4TH OF JULY STEERING COMMITTEE
- ___ 4TH OF JULY VOLUNTEER
- ___ SENIOR CITIZENS ADVISORY

EDUCATION
- ✓ LIBRARY BOARD
- ___ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER
- ___ VOLUNTEER FIRE DEPT./EMS
- ___ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

Your name has been suggested or you have requested an application for possible service on a City of Friendswood Board or Commission.

Please specify on which Board(s) or Commission(s) you wish to serve. (See the attached list). Library Board

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*
Library Board	Not sure but was on when new library was built.

THIS INFORMATION WILL BECOME PUBLIC RECORD

NAME: Stacy (Last) Elizabeth (First) M (M.I.)

HOME ADDRESS: 706 Quaker Drive

HOME TELEPHONE: 281-482-0475

PROFESSION: Retired Project Mgr from IBM

BUSINESS NAME & ADDRESS: N/A

PERSONAL REFERENCES:
Please list at least two references.

NAME: Ruth McClelland
ADDRESS: 83 El Dorado, Friendswood
PHONE: 281-996-5682

NAME: Nancy Browning
ADDRESS: 1215 N. Riviera Circle, Pearland
PHONE: 281-993-8551

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Giving this information is voluntary.

DATE OF BIRTH: 2/6/1947
SEX: Female
FRIENDSWOOD RESIDENT FOR 37 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?

I was a member of the Library Board for many years. Now that I'm retired, I have more time to dedicate to volunteer activities.

Please list any civic or community endeavors in which you have been involved:
Library Board

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Elizabeth Stacy
Signature of Applicant

3/14/12
Date

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this form to the address below regardless of whether or not you are able to serve on a board or commission at this time:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

JUN 2004
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

VOLUNTEER APPLICATION

NAME: TED THOMAS

HOME PHONE: 281 482-2205

ADDRESS:

CELL ~~WORK~~ PHONE: 281-923-5282

OCCUPATION: RETIRED

SPECIAL INTERESTS AND TALENTS: LIBRARY, EDUCATION

Are you currently serving as a member of any Friendswood governmental body? No
If so, please name the body:

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
- ____ ELECTION DAY POLL WORKER
- ____ SUPPORT STAFF

PLANNING & PRESERVATION
- ____ PLANNING & ZONING COMMISSION
- ____ ZONING BOARD OF ADJUSTMENT
- ____ COMMUNITY APPEARANCE BOARD
- ____ COMMUNITY & ECONOMIC DEVELOPMENT
- ____ PIPELINE SAFETY COMMITTEE
- ____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS

RECREATION
- ____ PARKS & RECREATION BOARD
- ____ 4TH OF JULY STEERING COMMITTEE
- ____ 4TH OF JULY VOLUNTEER
- ____ SENIOR CITIZENS ADVISORY

EDUCATION
- ✓ LIBRARY BOARD
- ____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

I AM AVAILABLE FOR
- ✓ LONG-TERM PROJECTS
- ____ SHORT-TERM PROJECTS
- ✓ DAYTIME
- ✓ EVENING
- ____ SUMMER

OTHER
- ____ VOLUNTEER FIRE DEPT./EMS
- ____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Giving this information is voluntary.

DATE OF BIRTH: 11/19/35
SEX: M
FRIENDSWOOD RESIDENT FOR 37 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
FORMER SUPT. of SCHOOLS
LIFE LONG INTEREST IN LIBRARIES

Please list any civic or community endeavors in which you have been involved:
ROTARY PRES.; CHAMBER of COMMERCE; PUBLIC SCHOOLS

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Ted Thomas
Signature of Applicant

6/15/04
Date

Thank you for taking the time to complete this application It will be helpful to the Friendswood City Council in making appointments.

Please return this form to the address below regardless of whether or not you are able to serve on a board or commission at this time:

DELORIS MCKENZIE
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

Your name has been suggested or you have requested an application for possible service on a City of Friendswood Board or Commission.

Please specify on which Board(s) or Commission(s) you wish to serve (See the attached list). LIBRARY BOARD

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service

Name of Board or Commission:	*Dates of Service:*
CHARTER	LONG AGO

THIS INFORMATION WILL BECOME PUBLIC RECORD

NAME: THOMAS (Last) TED (First) L. (M.I.)

HOME ADDRESS: P.O. BOX 321 FRIENDSWOOD TX 77549

HOME TELEPHONE: 281 482 2205

PROFESSION: RETIRED SUPERINTENDENT of SCHOOLS

BUSINESS NAME & ADDRESS: N/A

PERSONAL REFERENCES:
Please list at least two references.

NAME: RICHARD CONWAY
ADDRESS: 505 S. FRIENDSWOOD
PHONE: 281 482-7555

NAME: DAVID SMITH
ADDRESS:
PHONE: 281 482 2121

MAY 2018
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: DAVID E O'BRIEN III HOME PHONE: 281-482-0052

HOME ADDRESS: 103 Garden Dr WORK PHONE: N/A

EMAIL ADDRESS: Lindavid65@Comcast.net CELL PHONE: 832-231-9673

OCCUPATION: Retired

SPECIAL INTERESTS AND TALENTS: Many general activities

Are you currently serving as a member of any Friendswood governmental body? Yes

If so, please name the body: Zoning Board of Adjustments

Approved 07/10/17 mkw

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
✓ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_____ DAYTIME
_____ EVENING
_____ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
✓ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*
Zoning Board of Adjustments	1995(?) to present

PERSONAL REFERENCES:

Please list at least two references.

NAME: Gary & Lynda Harris
ADDRESS: 406 Fallow Lane
PHONE: 281-482-8366

NAME: Betty Dillon
ADDRESS: 301 Christina Lane
PHONE: 281-482-1573

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: 4/11/41
SEX: M
FRIENDSWOOD RESIDENT FOR 40 YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)? 20+ years ZBOA member & Chairman

Please list any civic or community endeavors in which you have been involved: Heritage Garden Club; MAN Senior Activity Center Events, Trips, exercise, Dominoes, etc.

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

David E O'Brien III
Signature of Applicant

5-28-2018
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

Aubrey Harbin, CDD

JUN 2017
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Ronald Dyer HOME PHONE: 281-992-1085

HOME ADDRESS: 1409 Falling Leaf Dr WORK PHONE: N/A

EMAIL ADDRESS: rdyer3000@yahoo.com CELL PHONE: 832 385 1979

OCCUPATION: Retired Professor - P/T @ UT McGovern Med School Teaching Ultrasound Testing students to MED Stude

SPECIAL INTERESTS AND TALENTS: Volunteer at Local Community & Church - Sailing - Scuba Diving - Teaching Medical Radiography + Anatomy - Outdoor Activities

Are you currently serving as a member of any Friendswood governmental body? yes

If so, please name the body: Friendswood Zoning Board of Adjustments + Appeals Since 2007

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
- _____ ELECTION WORKER

PLANNING & PRESERVATION
- (●) PLANNING & ZONING COMMISSION
- _____ ZONING BOARD OF ADJUSTMENT & APPEALS
- _____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
- _____ COMMUNITY & ECONOMIC DEVELOPMENT
- _____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
- _____ INVESTMENT COMMITTEE
- _____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR
- (●) LONG-TERM PROJECTS
- _____ SHORT-TERM PROJECTS
- (●) DAYTIME
- (●) EVENING
- _____ SUMMER

RECREATION
- _____ 4TH OF JULY STEERING COMMITTEE
- _____ 4TH OF JULY VOLUNTEER
- _____ SENIOR CITIZENS ADVISORY

EDUCATION
- _____ LIBRARY BOARD
- _____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
- _____
- _____

OTHER
- _____ WEST RANCH MANAGEMENT DISTRICT
- _____ ANIMAL SHELTER ADVISORY
- _____ VOLUNTEER FIRE DEPT./EMS
- _____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

Revised 06/13/16 mkw

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 9-6-1948
SEX: _____
FRIENDSWOOD RESIDENT FOR 28 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
• maintain strong understanding of local zoning law, Ordinances, regulations and knowledge of initiating process for permits.
• Currently serving as President Friendswood Columbus Club Board of Directors • 30 years teaching • Negotiated Contracts between College and Affiliated Hospitals • MS University Houston

Please list any civic or community endeavors in which you have been involved:
Knights of Columbus Council 8494 - UT MEDICAL SCHOOL
Texas Lottery Comission Certified Bingo Worker (Charity)
Active Member Mary Queen Catholic Church - regularly serve as Usher

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Ronald M Dyer
Signature of Applicant

6-12-2017
Date

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*
Friendswood Zoning Board of Adjustments + Appeals	2007 to Present

PERSONAL REFERENCES:

Please list at least two references.

NAME: Derek Gillard
ADDRESS: 622 Canyon Crest
PHONE: 281 316 1298

NAME: Raynell Ward
ADDRESS: 707 Narcissus
PHONE: 281 300 4603

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Mike Czarowitz HOME PHONE:

HOME ADDRESS: 201-C Skyview WORK PHONE:

EMAIL ADDRESS: czarowitz@hotmail.com CELL PHONE: 713-2527464

OCCUPATION: retired

SPECIAL INTERESTS AND TALENTS: reading - gardening

Are you currently serving as a member of any Friendswood governmental body? ZBOA / Library Board

If so, please name the body:

Approved 07/10/17 mkw

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

__X__ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
__X__ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
__X__ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

__X__ LONG-TERM PROJECTS
__X__ SHORT-TERM PROJECTS
__X__ DAYTIME
__X__ EVENING
__X__ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

__X__ LIBRARY BOARD
__X__ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____
_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: 9-7-40
SEX: Male
FRIENDSWOOD RESIDENT FOR 16 YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)? Real estate Broker

Please list any civic or community endeavors in which you have been involved: Library Board - BOND Committee - ZBOA

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Signature of Applicant

5-22-18
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*
Library Board	
ZBOA –	

PERSONAL REFERENCES:

Please list at least two references.

NAME: Ted Thomas
ADDRESS: 201-A Skyview
PHONE: 281-482-2205

NAME: Joyce Baker
ADDRESS: 211-A Skyview
PHONE: 281-482-7726

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Linda S. Thornton

HOME PHONE: 281-482-7118

HOME ADDRESS: 200 Stonehenge

WORK PHONE: Retired

EMAIL ADDRESS:

CELL PHONE: 281-797-2827

OCCUPATION: Retired

SPECIAL INTERESTS AND TALENTS:

Are you currently serving as a member of any Friendswood governmental body? Yes, City Elections.

If so, please name the body: ZBOA - Alternate Member

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

__✓__ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
__✓__ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_____ DAYTIME
__✓__ EVENING
_____ SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*
ZONING BOARD OF ADJUSTMENT	

PERSONAL REFERENCES:

Please list at least two references.

NAME: DELORIS MCKENZIE
ADDRESS: 1109 E. FM 512, ALVIN, TX 77511
PHONE: CELL 281-467-9944

NAME: MELINDA WELSH
ADDRESS: 910 S. FRIENDSWOOD DR.
PHONE: 281-996-3270

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: 03-09-40
SEX: F
FRIENDSWOOD RESIDENT FOR 1968 YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
I WAS ASSITANT CITY SECRETARY & SECRETARY TO ZBOA FOR MANY YEARS. I ALSO SERVE AS ALTERNATE ZBOA MEMBER AND ALSO - ELECTION WORKER & ELECTION JUDGE FOR CENTRAL COUNTING STATION. - FOR CITY OF FRIENDSWOOD.

Please list any civic or community endeavors in which you have been involved: FORMER ASSITANT CITY SECTRY - FOR City of FRIENDSWOOD - ZBOA & ELECTIONS

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

Linda S. Thornton
Signature of Applicant

5-30-18
Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

BE A FRIENDSWOOD VOLUNTEER

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THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: GLEN GRAYBAN

HOME PHONE: —

HOME ADDRESS: 1527 GARDEN LAKES

WORK PHONE: 713/475/2424

EMAIL ADDRESS: GRGRAYBAN@YAHOO.COM

CELL PHONE: 832/818/3097

OCCUPATION: SYSTEMS ENGINEER

SPECIAL INTERESTS AND TALENTS: I HAVE BEEN INVOLVED IN ENGINEERING FOR 30+ YEARS. WHEN I WAS YOUNGER, I WORKED FOR SURVEYORS, E

Are you currently serving as a member of any Friendswood governmental body? YES

If so, please name the body: ZBOA ALTERNATE

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

- X ELECTION WORKER

PLANNING & PRESERVATION

- ___ PLANNING & ZONING COMMISSION
- X ZONING BOARD OF ADJUSTMENT & APPEALS
- ___ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
- ___ COMMUNITY & ECONOMIC DEVELOPMENT
- ___ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
- ___ INVESTMENT COMMITTEE
- ___ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

- X LONG-TERM PROJECTS
- ___ SHORT-TERM PROJECTS
- ___ DAYTIME
- X EVENING
- ___ SUMMER

RECREATION

- ___ 4TH OF JULY STEERING COMMITTEE
- ___ 4TH OF JULY VOLUNTEER
- ___ SENIOR CITIZENS ADVISORY

EDUCATION

- ___ LIBRARY BOARD
- ___ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

ANY OTHER NEEDS CITY MAY FEEL I CAN HELP WITH.

OTHER

- ___ WEST RANCH MANAGEMENT DISTRICT
- ___ ANIMAL SHELTER ADVISORY
- ___ VOLUNTEER FIRE DEPT./EMS
- X CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 2/13/62
SEX: M
FRIENDSWOOD RESIDENT FOR 17 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? No

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?
I HOLD ~~A DEGREE~~ A MASTERS IN INFORMATION SYSTEMS, I RUN IT FOR A HOUSTON ENGINEERING COMPANY. MY CAREER STARTED OFF IN COMPUTER SCIENCE AND ARCHITECTURE. I HAVE WORK IN DoD, DoE, PETROCHEM, GOLD/COPPER MINING ENGINEERING AND AUTOMATION TOGETHER FOR 30+ YEARS

Please list any civic or community endeavors in which you have been involved: FWD ZBOA, FRIENDSWOOD LAKES HOA AS PRESIDENT & MEMBER 2002-2016 GALVESTON COUNTY VOTING OFFICIAL, SEVERAL FWD ISSUES HAVE BEEN ADDRESSED BY ME. ATTEND CITY MEETINGS FREQUENTLY, PARADE MARSHAL 5 YEARS - GALVESTON

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant

Date 2/15/18

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*

PERSONAL REFERENCES:

Please list at least two references.

CITY

NAME: JIM HILL / ADAM HILL
ADDRESS:
PHONE:

NAME: KEVIN HOLLAND
ADDRESS:
PHONE:

CHIEF WETNER

PERSONAL

DR. LAURA WEBBER
1527 GARDEN LAKES
936/444-9823

TRACE WEBER
1704 SANDY LAKE
409/789-3744

KEN GORDAN
HOUSTON
713/558-7106

CC: M & CC

Aubrey Harbin, CDD
Karen Capps, CMO
Morad Kabiri, CMO

APR 2017
RECEIVED
CITY OF FRIENDSWOOD
CITY SECRETARY

BE A FRIENDSWOOD VOLUNTEER

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THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: Jason Byers HOME PHONE: 713-948-7506

HOME ADDRESS: 2 Mary's Creek Lane WORK PHONE: _____

EMAIL ADDRESS: J.J. Byers@Gmail.com CELL PHONE: 713-948-7506

OCCUPATION: Procurement/Contracts

SPECIAL INTERESTS AND TALENTS: Negotiations, Community outreach, Youth

Are you currently serving as a member of any Friendswood governmental body? NO

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION
_____ ELECTION WORKER

PLANNING & PRESERVATION
✓ PLANNING & ZONING COMMISSION
✓ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
✓ COMMUNITY & ECONOMIC DEVELOPMENT
✓ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
✓ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR
✓ LONG-TERM PROJECTS
✓ SHORT-TERM PROJECTS
✓ DAYTIME
✓ EVENING
✓ SUMMER

RECREATION
_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY

EDUCATION
_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED
_____
_____

OTHER
_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY
_____ VOLUNTEER FIRE DEPT./EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the reverse side for additional comments.

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions. Providing this information is voluntary.

DATE OF BIRTH: 22 JAN 1979
SEX: Male
FRIENDSWOOD RESIDENT FOR 3 1/2 YEARS

Have you ever been convicted of a crime, other than minor traffic violations? NO

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)? Experience with Project Management, Purchasing and contract negotiations, served on my church council, and on my church call committee. I have a degree in Business Administration

Please list any civic or community endeavors in which you have been involved: Church council, church call committee, FGSA Board Member (Past) FGSA coach.

I hereby affirm the information provided herein is true and correct, to the best of my knowledge.

Signature of Applicant

12 APRIL 2017
Date

Thank you for taking the time to complete this application. It will be helpful to the Friendswood City Council in making appointments.

Please return this application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board or Commission before, please indicate the Board or Commission and appropriate dates of service.

Name of Board or Commission:	*Dates of Service:*
N/A	N/A

PERSONAL REFERENCES:

Please list at least two references.

NAME: Kathy Holt
ADDRESS: 2110 Pine Drive Fwd, TX 77546
PHONE: 713-294-4820

NAME: Pam Brown
ADDRESS: 2 Dominion CT Fwd, TX 77546
PHONE: 832-236-6311

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 7/2/2018

Date Submitted: 6/20/2018 Dept. Clearances: T. Byrd

Prepared by: D. Murphree

Subject: Ground Emergency Ambulance Services

Originating Department: FMO City Attorney Review: mkf

Proceeding: Discussion & Possible Action

Degree of importance: Critical ☒ Significant ☐ Elective ☐

Expenditure Required: Amount Budgeted:

Appropriation Required: Source of Funds:

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The City of Friendswood issued RFP 2017-04 to receive proposals for Ground Emergency Ambulance Service. There were seven proposals received from: American Medical Response, Concord EMS, Arcadian Ambulance Services, Friendswood Volunteer Fire Department, Clear Lake Emergency Medical Corps, City Ambulance Service and Galveston County Health District. All seven proposals were evaluated. One proposer (Galveston County Health District) withdrew their proposal during the evaluation period. The six remaining proposers were interviewed.

Based on the submitted proposals and final scoring results, the Friendswood Volunteer Fire Department was ranked the highest.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Providing a high level EMS service to the City is an important and critical emergency services function.

RECOMMENDATIONS

Recommendation is made to award the contract for Ground Emergency Medical Services to the Friendswood Volunteer Fire Department Inc.

ATTACHMENTS

RFP 2017-04 – Ground Emergency Ambulance Service
RFP 2017-04 - EMS Tabulation Totals

CITY OF
FRIENDSWOOD
FRIENDSWOOD, TEXAS

REQUEST FOR PROPOSALS
FOR GROUND EMERGENCY MEDICAL SERVICES

RFP: 2017-04

SUBMISSION DEADLINE DATE	October 31, 2017
SUBMISSION ADDRESS	City of Friendswood ATTN: City Secretary's Office 910 S. Friendswood Drive Friendswood, TX 77546

	DATE
Issue RFP	October 11, 2017
Final day to Submit Questions	October 20, 2017
Answers Due to All Proposers	October 25, 2017
Proposals Due No Later Than 2:00 p.m.	October 31, 2017
Proposals Opened	October 31, 2017
Proposal Evaluations Completed	November 21, 2017
Recommendation to City Council	December 4, 2017
Contract Negotiations	December 5, 2017
Contract Approval by City Council	January 9, 2018
Contract Start	TBD

TABLE OF CONTENTS

I. INVITATION TO SUBMIT PROPOSALS 1

A. Overview of City Demographics 2

B. City of Friendswood's Functional Responsibilities 2

C. Contractor's Functional Responsibilities 2

D. Schedule of Events 4

II. MINIMUM QUALIFICATIONS & DOCUMENTATION OF CREDENTIALS 5

A. Overview 5

B. Methods of Qualifications 5

1. Experience 5

2. Financial Depth and Stability 5

III. SERVICE AREA SUMMARY, DEMOGRAPHICS AND BACKGROUND 6

A. Service Area 6

B. Historic Service Volumes 6

IV. PROPOSAL PROVISIONS 7

A. General Contractor Relationship 7

B. Scope of Services and Minimum Standards 7

1. Coverage 8

2. Response Times 8

C. Communications and Dispatch 9

D. Personnel 9

E. Clinical 10

F. Ambulance/Equipment and Supply 10

G. Reporting Requirements 11

H. Friendswood Volunteer Fire Department & Mutual Aid 11

I. Pricing 11

V. GENERAL FINANCIAL AND ADMINISTRATIVE PROVISIONS 12

A. Terms and Renewal Provisions 12

B. Insurance 13

C. Performance Security 14

D. Contractor Default and Provisions for Early Termination 14

VI. SUBMISSION & SCORING OF PROPOSALS

A. General Submission Information 16

1. Procurement Time Frames 16

2. Proposal Submission 16

3. Estimated Business Volumes 16

4. Exceptions 16

5. Proposal Cost and Ownership 17

6. Confidential Information 17

7. Permits and Licenses 17

8. Compliance with Laws and Regulations 17

9. Equal Opportunity 18

10. Certificate of Interested Parties (Form 1295) 18

11. HOUSE BILL 89 19

B. Required Table of Contents Format 19

C. Evaluation of Proposal 21

APPENDICES

Appendix 1 – Service Area Map.....22
Appendix 2 – Potential City and Non-City Functions.....23
Appendix 3 – Sample – Certificate of Interested Parties (Form 1295) 24

I. INVITATION TO SUBMIT PROPOSALS

The City of Friendswood, Texas ("City") is seeking Proposals from interested and qualified parties (the "Proposers/Contractors") for an Emergency Medical Services Agreement. This Proposal is for the provision of emergency ground ambulance services for all areas within the City, and to the terms and conditions hereinafter set forth in or referred to in this Request for Proposal ("RFP").

This RFP is open to all qualified Proposers who meet the minimum qualifications and documentation of credentials requirements outlined in this RFP. The award shall be made at the sole discretion of the City to the Proposer whose proposal is determined to be the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the Request for Proposal.

Evidence of qualifications and responsibility shall be furnished by the Proposer as described in this RFP and will be reviewed by the City. The award shall not be made until the City has completed its investigation and verification of the Proposer's qualifications and financial viability.

The City reserves the right to reject any or all Proposals. The submission of a Proposal does not by implication or expression commit the City to enter into a contract with that Proposer or any Proposer. No contract shall occur until the City has formally approved a written contract and it has been executed by all parties.

The successful Proposer shall serve as the Contractor to the City for a base term of one (1) year. The starting date is to be determined, but is projected to be between October 1, 2018 and January 9, 2019. The Contractor may earn extensions beyond the initial term by meeting or exceeding the minimum requirements of the contract during the previous term, provided the City Council elects to approve such extension. The City reserves the right to notify the Contractor they are in breach of contract and terminate the contract during any option period should Contractor evidence a failure to meet minimum requirements as set forth below.

Proposals are to be submitted at a substantial level of detail and completeness to allow adequate evaluation by the City on a technical and financial basis. Proposals are expected to include details on the organization, insurance coverage and qualifications to perform the contract for services. Base the response, including cost/price quotes, on the contract commencement date. Proposals determined by the City to be materially non-compliant with the RFP will be eliminated.

Compliance means that:

1. The Proposal meets the minimum credentialing criteria;
2. The Proposal was received prior to the deadline for submission;
3. The mandatory Table of Contents was followed (per Section VI. B);
4. Ordering and numbering conventions are consistent with the required table of contents; and,
5. Programs and offerings described in the Proposal meet the prescribed minimum standards and format stipulated in the RFP.

A. OVERVIEW OF CITY DEMOGRAPHICS

The City of Friendswood is located in southeast Texas and is south of the Houston Metropolitan Statistical Area. The City is located in both Galveston and Harris Counties.

This RFP is for emergency ground ambulance service within the defined City of Friendswood boundaries. The City has a total of approximately 21 square miles. The 2010 census reveals a population of 35,805 people with an estimated 2017 population of 40,426. There are approximately 14,000 households, with an estimated population density of 1,925 people per square mile. Calls for service during the work week are similar to calls for service evenings and weekends. The City has several Farm to Market roads including FM 2351, FM 528, and FM 518.

Approximately 72.8% of the City's population is covered by private insurance, 17.4% are covered by Medicare/Medicaid and approximately 9.8% are uninsured.

B. CITY OF FRIENDSWOOD'S FUNCTIONAL RESPONSIBILITIES

The City provides funding for Emergency Medical Services. It is the goal of the City to ensure that reliable, high quality ambulance service exists on an uninterrupted basis, fully consistent with standards set forth in this RFP.

To accomplish its responsibilities to the residents of the City, the City will provide for the following:

1. Set rules, policies and guidelines for the provision of ambulance services and billing within the City;

2. Negotiate and execute contracts for ambulance service;

3. Employ contractual safeguards to guard against poor Contractor performance, service degradation or interruption for any reason, or service cutbacks by a "lame duck" Contractor;

4. Approve Provider rates that are reasonable and competitive;

5. Require Provider to manage a reasonable collection practice, which indemnifies the City of Friendswood from all such collection efforts.

6. Designate a Contract Administrator to be a primary point of contact with the City and the selected Provider.

C. CONTRACTOR'S FUNCTIONAL RESPONSIBILITIES

Contractor provides and manages the delivery of ambulance services by meeting or exceeding the requirements of this RFP, including response time performance throughout the term of the contract.

The Contractor is responsible for the hiring of personnel, equipment maintenance, in-service training, coverage levels, and shift schedules. Numerous ancillary and support functions are also among the Contractor's responsibilities, such as maintaining compliance with insurance requirements, personnel recruitment, disaster readiness, inventory control, compliance with state regulations and other functions.

The list of Contractor's responsibilities should be considered illustrative only and not complete.

Along with other duties and responsibilities for providing 9-1-1 ALS or with MICU capable licensed ambulance services, the Contractor shall:

1. Provide and staff the necessary number of full-time fully equipped ambulance vehicles dedicated to the City of Friendswood (appropriate markings are subject to City approval);

2. Employ, manage, and make all appropriate withholding and payments for all ambulance personnel required for vehicles;

3. Provide or purchase all in-service training required of ambulance personnel;

4. Furnish all fuel, lubricants, maintenance, repairs and insurance for vehicles and equipment;

5. Maintain superior working relationships with the Friendswood Police Department and the Friendswood Volunteer Fire Department. Contractor will respond to law enforcement stand-by and fire department stand-by when dispatched;

6. Ensure courteous, professional, and safe conduct of all ambulance personnel, and other staff at all times;

7. Maintain personnel certifications and its ambulance Provider's license(s);

8. Keep the City informed in a timely manner of all activities, issues, and policy/procedure modifications (internal and external) that may reasonably be expected to affect (positively or negatively) the service area;

9. Provide training, support, re-supply, and a Medical Director for the purpose of licensure by the State of Texas;

10. Provide a minimum fleet size as agreed upon;

11. Participate in an annual financial audit of City provided funds. The audit shall meet all the financial and accounting practices as specified by the City of Friendswood Financial Director;

12. Participate in regional planning and adhere to all regional plan guidance;

13. Comply with all other obligations and conditions set forth in the contract with the City, and

14. Provide a liaison to be a primary point of contact with the City.

15. If required, coordinate with the City in responding to Texas Public Information Act requests for records.

D. SCHEDULE OF EVENTS

The following table provides information about the schedule for this procurement process at the time of the RFP release.

TABLE 1 - RFP TIMELINE

	DATE
Issue RFP	October 11, 2017
Final day to Submit Questions	October 20, 2017
Answers Due to All Proposers	October 25, 2017
Proposals Due No Later Than 2:00 p.m.	October 31, 2017
Proposals Opened	October 31, 2017
Proposal Evaluations Completed	November 21, 2017
Recommendation to City Council	December 4, 2017
Contract Negotiations	December 5, 2017
Contract Approval by City Council	January 9, 2018
Contract Start	TBD

Requests for clarification of the RFP specifications must be submitted in writing to eoc@friendswood.com. **ANSWERS TO QUESTIONS RAISED BY ANY PROPOSER WILL BE SENT ELECTRONICALLY TO EVERY KNOWN PROPOSER.** Any information obtained by Proposers from any source other than electronic communication from City of Friendswood officials should be considered unofficial and possibly in error.

Any attempt to directly contact members of the Friendswood City Council regarding this procurement may result in non-consideration.

Questions will only be accepted through email at eoc@friendswood.com. All responses will be sent to original requestor as well as all known Proposers.

II. MINIMUM QUALIFICATIONS & DOCUMENTATION OF CREDENTIALS

A. OVERVIEW

This section delineates the minimum qualifications that a Proposer must possess in order to submit a response under this RFP. The City of Friendswood will determine if Proposer is qualified or not qualified to enter into a contract through the procedure set forth in this RFP.

There are two (2) key areas in which minimum qualifications must be established:

1. Previous experience in managing Emergency Medical Services (EMS);

2. Financial depth and stability.

B. METHODS OF QUALIFICATIONS

Should any group submit a Proposal as a joint venture, or should any Proposer intend to utilize a subcontractor to fulfill specified aspects of its obligations, any information presented that does not reflect the experience of the operational unit that is responsible for this Proposal shall be so noted. In addition, Proposer shall provide information regarding the experience in each of the two (2) key areas for which minimum qualifications are to be established for every member of a joint venture or subcontractor that may be involved in fulfilling the provisions of the RFP.

PROPOSERS SHALL PROVIDE THE FOLLOWING

1. EXPERIENCE

   Proposer shall provide documentary evidence that clearly demonstrates that the Proposer has experience managing an emergency 9-1-1 ALS or with MICU capable licensed level ambulance service. Information provided should include a list of all communities in which the service is operated, name(s) of the contact officer(s) or designated government contact person, the number of responses provided in each of the past three (3) years, and a brief description of the community and service provided. Information regarding medical and governmental contacts should include names, titles, addresses, telephone number, and email addresses.

2. FINANCIAL DEPTH AND STABILITY

   Proposer shall provide evidence that clearly documents the financial history of the organization and demonstrates that the Proposer has each of the following:

   a) Financial capability to handle the expansion (including implementation and startup costs) necessitated by the award of the contract and the expertise of billing Medicare, Medicaid and other third party payers. Proposer shall include copies of its audited financial statements for the most recent three (3) year period; and

documentation of expertise in billing Medicare and other third party payers of ambulance services or copy of a contract with a billing service that provides this service.

b) Provide evidence of existing insurance coverage as well as provide written verification of insurer's willingness to indemnify the City of Friendswood under the terms of the Proposal.

c) Provide evidence of corporate or DBA filings in the manner in which tax returns are filed, and declare itself a for-profit or not-for profit entity.

d) If a non-profit organization is selected, they must provide a document before the contract start date on the organization's letterhead, signed by the organization's board representative certifying the organization's Board of Directors approved the Proposal and wishes to enter into a contract and will abide by the terms of the Proposal. The document must include:

(1) The date the meeting was held and the vote conducted;
(2) The name and title of board members present;
(3) The motion that was to be considered;
(4) The result of the vote; and
(5) A copy of the meeting agenda and certified minutes relating to the motion.

III. SERVICE AREA SUMMARY, DEMOGRAPHICS AND BACKGROUND

A. SERVICE AREA

The service area map for the City of Friendswood can be found in Appendix 1 – Service Area Map.

B. HISTORIC SERVICE VOLUMES

The call volume provided in the table below is an estimate based upon information provided by the Friendswood Police Department Dispatch. The following numbers include EMS calls dispatched within the city limits of Friendswood as well as mutual aid given and received.

FISCAL YEAR	CALLS	MUTUAL AID RECEIVED	TRANSPORTS
FY 2014	2,589	50	1,383
FY 2015	2,619	83	1,391
FY 2016	2,536	63	1,541

IV. PROPOSAL PROVISIONS

A. GENERAL CONTRACTOR RELATIONSHIP

Through this procurement, the City has stated its intent to have a single contractor to provide all of the services specified in the RFP. Should a proposer intend to use one or more subcontractors to provide any of the contractor's responsibilities, including but not limited to, ambulance response/transportation, staffing, training, billing, dispatch, fleet maintenance, or any similar services, the Proposer must provide information about the subcontractor and its relationship to the Proposer. The inability or failure of any subcontractor to perform any duty or deliver contracted results will not excuse the primary Contractor from any responsibility under the contract with the City of Friendswood.

At all times during the term of the contract, the company awarded the contract shall operate as an independent Contractor to the City, and the Contractor shall not in any event be deemed an employee or other representative of the City, nor shall he/she hold themselves out as such. All employees of the Contractor shall at all times be considered as an employee of the Contractor, and the Contractor will be solely liable for the payment of all wages and benefits made available to such employees in connection with their employment. In addition, it is expected and understood that the Contractor will be responsible at all times for the supervision and performance of their employees. The Contractor shall warrant that each employee has been carefully screened as to character and fitness for the performance of his/her job.

B. SCOPE OF SERVICES AND MINIMUM STANDARDS

The Contractor will provide all emergency ground ambulance service for the City of Friendswood. The Contractor warrants that it is a licensed emergency medical service provider with the Texas Department of Health and that it shall at all times maintain such license in full force and effect.

Certain minimum standards that are *required* of the winning Contractor in the performance of this contract that must be adhered to:

Contractor must provide a minimum of two dedicated (2) ALS or with MICU capable licensed units and one (1) supervisor at all times to the service area, both assigned for emergency response.

The Contractor is free and encouraged to use their expert judgment in providing services that exceed these minimum standards if they so choose.

The required provision standards of this RFP (scope of services) are as follows:

1. COVERAGE

In the Proposal, the Proposer shall show the methods and resources necessary to comply with the standards in this section; including staffing and placement of ALS or with MICU capable units.

The Contractor is responsible for providing back-up services by ensuring that interlocal agreements or mutual aid agreements are in place.

2. RESPONSE TIMES

Response times are a combination of dispatch operations and field operations. The City does not limit the Contractor's flexibility in the methods of providing 9-1-1 EMS service as long as the minimum coverage standard is met.

a. CALL CLASSIFICATION

Contractor shall be primarily responsible for all 9-1-1 EMS classified calls within the City ambulance service area.

b. EMERGENCY ASSIGNMENTS

The Contractor shall place a transport capable ALS or higher licensed ambulance at the scene of an emergency request within (7:59) minutes on not less than ninety per cent (90%) of all primary emergency dispatch response requests.

c. CALCULATION OF RESPONSE TIMES

For all emergency service, the response time clock starts at "call dispatched" (the second the Dispatch Center notifies the ambulance crew via radio of the call).

For all requests for services, "arrival on scene" shall be the time a fully equipped transport capable Advanced Life Support ambulance arrives at the location of the request for service.

In instances when the ambulance fails to report "at scene", the time of the next communication with that ambulance shall be used as the "at scene" time. However, the Contractor may appeal such instances when it can document the actual arrival time through another means, including Fire Department and Police Department reports, GPS, or communications tapes. All response times shall be measured in minutes and seconds, not whole minutes.

d. RESPONSE TIME EXEMPTIONS

The City of Friendswood understands that isolated instances may occur in which the Contractor does not meet the stated performance specifications. However, a chronic failure to comply with the response time standards may constitute default of

the contract. Chronic failure is defined as the failure of the Contractor to meet any response time standard in any three (3) out of five (5) consecutive calendar month period.

The Contractor shall maintain mechanisms for reserve response capacity should temporary system overload persist. However, it is understood that from time to time unusual factors beyond the Contractor's reasonable control affect the achievement of specified response time standards. These unusual factors are limited to unusually severe weather conditions or declared disasters as noted below.

Exemptions shall be as follows:

(a) Requests occurring during a period of unusually severe weather conditions when response time compliance is either impossible or could be achieved only at a greater risk to EMS personnel and the public than would result from a delayed response. The Contractor shall make such requests retrospectively of the event to the City of Friendswood.
(b) Requests during a declared disaster confirmed by the City of Friendswood, locally or in a neighboring jurisdiction, in which the Contractor is rendering assistance. During such periods, the Contractor shall use best efforts to maintain primary coverage, while simultaneously providing disaster assistance as needed.
(c) Service requests exceed local capacity and mutual aid is required.

1. COMMUNICATIONS AND DISPATCH

In the Proposal the Proposer shall show the methods and resources necessary to comply with the standards in this section.

The Contractor will utilize standard industry radio communications, GPS and mapping, at all times. The Friendswood Police Department Communications Division is responsible for 9-1-1 dispatch service in the City.

All units shall be equipped with a 700/800 MHz dual band radio capable of communicating directly with the Police Department, Fire Department and the Office of Emergency Management. All personnel on duty shall be equipped with an appropriately programmed hand-held radio. Radios should also be programmed with radio frequencies from a list provided by the Friendswood Office of Emergency Management to provide inter-operative communications.

2. PERSONNEL

In the Proposal the Proposer shall show the methods and resources necessary to comply with the standards in this section. Include number(s) and level of field staff proposed for this contract.

All ambulance services will be provided at a minimum at the ALS with a MICU capable level.

Contractor shall staff each ambulance with certified emergency care providers in such number and with training and certification as required by the Texas Department of State Health Services for Advanced Life Support Care Units.

Contractor and contractor personnel should be familiar and compliant with NIMS and NIMS compliance requirements to the extent of job function and interaction with fire and law enforcement. Contractor will provide evidence of at least 100% compliance in NIMS within the first month. The Friendswood Office of Emergency Management can provide the training required if needed.

3. **CLINICAL**

In the Proposal the Proposer shall show the methods and resources necessary to comply with the standards in this section. Include a copy of the proposed Medical Director's contract, certifications, and any negotiated conditions between the service provider and the Medical Director.

The Contractor will ensure that they have a contract providing for a Medical Director, medical controls, and all medical protocols. These elements will be provided following the rules and regulations set forth by the Texas Department of State Health Services. Documentation shall be provided to include the name and contact information of the Medical Director, their certifications, number of contracts held by the Medical Director, and medical protocols, along with a copy of the Medical Director's contract in the Proposal.

The Contractor will be required to provide on-going in-service training programs and internal controls to ensure protocol compliance. Proposer should provide a person in charge of EMS Compliance, as well as an explanation of the Quality Assurance Program in place.

4. **AMBULANCE / EQUIPMENT AND SUPPLY**

In the Proposal the Proposer shall show the methods and resources necessary to comply with the standards in this section. Include the number of vehicles required and proposed for this contract, describe your organization's vehicle maintenance program, and explain the provider's vehicle replacement schedule.

The Contractor is fully responsible for the provision of maintenance and replacement of vehicles and equipment necessary to fulfill the obligations of this contract. The Contractor shall provide ambulances that are at a minimum licensed with the Texas Department of State Health Services as Advanced Life Support Care Units. The Contractor will provide such equipment in sufficient quantity and quality to ensure that no lapse in service exists during times of maintenance or vehicle/equipment failure. The City of Friendswood has 3 ALS or higher capable ambulances and 2 Supervisor's Vehicles in its fleet. Use of these vehicles and equipment by the winning Proposer is negotiable.

5. REPORTING REQUIREMENTS

In the Proposal the Proposer shall show the methods and resources necessary to comply with the standards in this section.

The Contractor will be required to submit **QUARTERLY** reports to the City of Friendswood regarding elements of the provisions of ambulance services in the contracted area. Upon contract award the parties will meet, confer, and agree on a format for such reporting. This reporting will encompass such data items as call volume, response times, billing and collections and other quality assurance reporting. This required reporting will occur on a **QUARTERLY** basis and will form the basis by which the City can validate compliance with the contract and will confirm the Service Provider's sworn statement for appropriate and proper billing.

6. FRIENDSWOOD VOLUNTEER FIRE DEPARTMENT, MUTUAL AID COMMUNITY FUNCTIONS

In the Proposal the Proposer shall show the methods and resources necessary to comply with the standards in this section.

The Contractor will be required to develop a superior working relationship with the Friendswood Volunteer Fire Department, other EMS providers, and other emergency service providers within and adjacent to the City of Friendswood. Mutual Aid agreements must be in place with other ALS or MICU capable providers to assist in coverage during times when the dedicated units are on other calls.

Contractor shall develop mechanisms to exchange re-useable supplies and re-stock disposable medical supplies used by the Friendswood Volunteer Fire Department when treatment has been provided by responding personnel prior to patient care being assumed by the Contractor's personnel. Equipment and supplies will be exchanged on a one-for-one basis.

Contractors are encouraged to detail any additional proposed support to the Friendswood Volunteer Fire Department program, including the provision of in-service training which will benefit the EMS system as a whole. The training should, at minimum, facilitate on-scene interactions with the Contractor's personnel and offering joint EMS training. The Contractor shall identify opportunities for members of the Friendswood Volunteer Fire Department to participate as EMS responders.

The Proposer shall include a plan to address participation in community functions as indicated in APPENDIX 2.

7. PRICING

In the Proposal, the Proposer shall provide pricing for the elements of the RFP as outlined. Proposer shall provide information on how they will cover the entire City of Friendswood EMS area of responsibility with primary and back-up ground coverage to meet the stated

response time requirements. Based on contract start date, Proposers should include forecasted projected cost.

PROVIDE PRICING INFORMATION IN THE FOLLOWING:

AMBULANCE RATES

Provide full ambulance rate information for the proposed operations of the Contract. Include fees for all charges; (i.e. base rates, mileage, and any add-on charges). Proposer shall provide their expected average patient charge for 9-1-1 transports. Rates should be in line with normal and customary charges and the Consumer Price Index.

The required base Proposal **MUST** include the pricing to provide two (2) 24-hr ALS or MICU capable licensed units with one (1) 24-hr supervisor for the City of Friendswood only. These ambulances and supervisors shall be designated as 9-1-1 units only.

The units will be housed in the City of Friendswood's Fire Stations. Do not include the cost of office space/vehicle housing or utilities in the proposal. These items will be points of discussion during contract negotiations.

PROPOSER IS ENCOURAGED TO SUBMIT ADDITIONAL OPTIONS FOR 9-1-1 SERVICE WHICH THEY FEEL WOULD BETTER SERVE THE NEEDS OF THE CITY OF FRIENDSWOOD.

TRANSFER AMBULANCE SERVICE

Currently the City of Friendswood does not regulate transfer ambulance services within the City. The Proposer has the ***OPTION*** to submit for consideration by the City, an additional Proposal providing for transfer ambulance service.

V. GENERAL FINANCIAL AND ADMINISTRATIVE PROVISIONS

A. TERMS AND RENEWAL PROVISIONS

The term of the contract ultimately executed by the Contractor shall be for a base term of one year and two (2) subsequent five-year (5) option periods starting January 1, 2019. The City of Friendswood reserves the right to notify the Contractor they are in breach of contract and terminate the contract during any extension period should Contractor evidence a failure to meet minimum requirements as set forth below.

The City shall evaluate the Contractor's performance and may elect to award extensions, subject to the following requirements:

1. RESPONSE TIME PERFORMANCE EXCEEDING REQUIREMENTS

   Finding by the City of Friendswood that the clinical and response time performance of the Contractor has, in general, exceeded the minimum requirements set forth in this Request for Proposal, and

2. SUBSTANTIAL COMPLIANCE

   Finding by the City that the Contractor substantially and consistently meets the various requirements of applicable federal, state and local laws, rules and regulations; and performance obligations of the contract, and

3. EXCEPTIONAL PERFORMANCE

   A determination is made by the City that the Contractor has met and/or exceeded all commitments made by the Contractor in its winning Proposal.

B. INSURANCE

In this Proposal, Proposer shall provide evidence of ability to meet all requirements described in this section.

Throughout the term of the contract, and any extensions thereof, Contractor shall procure, pay for, and maintain the minimum insurance coverage and limits as provided for herein. This insurance shall be evidenced by delivery to the City of certificates of insurance written by one or more insurance companies with a best rating of "A" or better, licensed to do business in the State of Texas and acceptable to the City of Friendswood. These insurance certificates shall list coverage and limits, expiration dates and terms of policies, and the names of all carriers issuing or re-insuring these policies. Insurance requirements shall remain in effect throughout the term of this agreement. The following coverage shall be provided:

1. Commercial general liability insurance, including but not limited to, bodily injury property damage and personal injury, with limits of not less than One Million and 00/100 Dollars ($1,000,000.00) per occurrence, and annual aggregate. Coverage shall be on "an occurrence basis," and the policy shall include broad form property damage coverage, contracted liability, and fire legal liability of not less than One Million and 00/100 Dollars ($1,000,000.00) per occurrence, unless otherwise stated by exception herein.

2. Professional medical liability insurance including errors and omissions with minimum limits of not less than One Million and 00/100 Dollars ($1,000,000.00) per occurrence, and an aggregate limit of no less than Two Million and 00/100 Dollars ($2,000,000.00).

3. Automobile Liability with a One Million and 00/100 Dollars ($1,000,000.00) combined single limit for bodily injury and property damage of per occurrence, and

4. "NO REPRESENTATION OF COVERAGE ADEQUACY"

   By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Contractor. The City reserves the right to review any and all insurance policies and/or endorsements cited in the Contract, but have no obligation to do so. Failure to demand such evidence of full compliance with the insurance

requirements set forth in this agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of the Contract.

5. Worker's compensation coverage and policy, in compliance with the State of Texas. The Workers' Compensation policy must waive subrogation rights. Policies other than the Workers' Compensation Insurance shall name the City, its agents, officials, and employees as additional named insured. The City must receive at least thirty (30) days' prior written notice of any expiration, cancellation, non-renewal or material change in coverage of Contractor's insurance coverage. Nothing shall absolve Contractor of this requirement to provide notice.

6. By submitting a Proposal and/or accepting a contract for services, the Contractor will agree to hold harmless the City, its officer, agents and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, attorney fees, for injury to, or death of, any person, or for damage to any property arising out of, or in conjunction with, the work done by the contractor, regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of the City.

C. PERFORMANCE SECURITY

In the Proposal, the Proposer shall provide evidence of ability to meet all requirements described in this section.

Due to the importance of EMS to the community it serves, The City must do everything possible to eliminate the potential for a system failure. Ambulance service is an essential service and a well-designed system incorporates a variety of performance security measures to minimize the potential for failure and to sustain uninterrupted service in the event of the failure of the Contractor.

The City will use a pre-qualification of proposers as outlined in **SECTION II MINIMUM QUALIFICATIONS & DOCUMENTATION OF CREDENTIALS** to ensure the ability of the Proposer to fulfill the obligations of this RFP. The Contractor will deposit with the City, an annually renewable performance bond in a form acceptable to the City. The amount of the performance bond shall be five hundred thousand dollars ($500,000.00). The parties will agree that this is a reasonable amount for total liquidated damages in the event of Contractor's failure to perform, termination, or breach of contract.

D. CONTRACTOR DEFAULT AND PROVISIONS FOR EARLY TERMINATION

Conditions and circumstances that constitute default under the contract shall include but not be limited to the following:

1. Failure of the Contractor to operate the service in a manner consistent with federal, state and local laws, rules and regulations.

2. Supplying the City with false or misleading information with regard to records, documents or data kept for the purposes of determining Contractor's performance under the terms of this Proposal;

3. Deliberate and unauthorized scaling down of operations to the detriment of performance or level of service;

4. Chronic and persistent failures of the ambulance provider's employees to conduct themselves in professional manner, and to present a professional appearance to such extent that the City's name may be harmed;

5. Failure of the Contractor to provide data generated in the course of operations;

6. Failure to substantially and consistently meet or exceed the various clinical response standards provided for in this RFP;

7. Failure of the Contractor to maintain equipment in accordance with manufacturer or industry maintenance practices;

8. Making an assignment for the benefit of creditors; filing a petition for bankruptcy; being adjudicated insolvent or bankrupt; petitioning by a custodian, receiver or trustee for a substantial part of its property; or, commencing any proceeding relating to it under the bankruptcy, reorganization arrangements, readjustment of debt, dissolution or liquidation law or statute;

9. Chronic failure of the Contractor to meet response time requirements as set forth in the contract;

10. Failure to furnish key personnel of quality and experience as agreed;

11. Failure to submit reports and information under the terms and conditions outlined in the contract.

12. Excessive and unauthorized scaling down of operations to the detriment of performance during "lame duck" period.

13. Failure of the Contractor to maintain insurance in accordance with the agreement; and

14. Any other failure of performance required in this agreement and which is determined by the City to constitute a default or endangerment to public health and safety.

THE CONTRACTOR SHALL BE LIABLE TO THE CITY OF FRIENDSWOOD FOR ALL FEES, COSTS, AND EXPENSES INCURRED BY THE CITY OF FRIENDSWOOD TO ENFORCE THE TERMS OF THE CONTRACT.

VI. SUBMISSION & SCORING OF PROPOSALS

A. GENERAL SUBMISSION INFORMATION

1. PROCUREMENT TIME FRAMES

The schedule for City of Friendswood procurement is outlined in Section I, D of this RFP. Failure to comply with any time frames outlined in the RFP Timeline may result in automatic disqualification of the Proposer.

2. PROPOSAL SUBMISSION

Proposals must be in writing. The sealed package containing one (1) original, six (6) copies plus 1 CD, is to be labeled on the outside with "**City of Friendswood RFP 2017-04**".

"Proposals will be received at the **City Secretary's Office, 910 S. Friendswood Drive, Friendswood, TX 7746** until **2:00 PM OCTOBER 31, 2017**. No late proposals will be considered. Proposals will be opened and publicly read immediately after the closing hour. No pricing will be read at this time."

3. ESTIMATED BUSINESS VOLUMES

The City specifically makes no representations or warranties regarding the number of requests for ambulance service, ambulance transports, quantities or length of long distance transfer services, or frequency of special event coverage that may be associated with this procurement. Any and all historical data on past volumes of calls for EMS service within the City service area are provided mainly to illustrate the historical level of responses and not as a guarantee of future business volume.

The City recognizes that Proposers are experienced experts in the delivery of emergency and non-emergency ambulance services, and therefore presumably better qualified than the City to predict ambulance transport volumes based upon population, demographics, and trends.

4. EXCEPTIONS

Proposers taking material exception to the specifications need to clarify exceptions and provide alternate methods or means to continue to be considered. The City encourages all Proposers to submit exceptions. The City reserves the right to reject any and all exceptions. The purpose of the question submission period is to provide clarification of the RFP and its specifications before submission of Proposals. If an organization has questions regarding the RFP and its specifications, a request for clarification should be submitted to eoc@friendswood.com (Section I., D.)

5. PROPOSAL COST AND OWNERSHIP

Each Proposal prepared in response to this RFP shall be prepared at the sole cost and expense of the Proposer, and with the express understanding that no claims against the City for reimbursement will be accepted. All Proposals will become the property of the City and will not be returned to the Proposer. The Proposer should not include confidential information or trade secrets to be considered confidential since, subsequent to the selection and evaluation process, all accepted Proposals will become public information. However, if such information is necessary to ensure a competitive Proposal, then the Proposer is to follow the guidelines for confidential information as discussed further in this section.

6. CONFIDENTIAL INFORMATION

Proposals made in response to this RFP may contain technical, financial or other data whose public disclosure could cause substantial injury to the Proposer's competitive position or constitute a trade secret. Information will not be released to the public unless a Public Information Act request is received by the City and the Texas Attorney General rules it to be released or a court orders disclosure. If a Public Information Act request is received by the City after the contract has been awarded, the City will make a good faith attempt to notify you that proprietary information may be subject to Section 552.110 of the Texas Government Code.

7. PERMITS AND LICENSES

The Contractor will be responsible for and hold any and all required federal, state, and local licenses required necessary to perform the duties under the contract. In addition, the Contractor will make all necessary payments for licenses and permits to conduct its business and duties under the contract. The Contractor will assure that all necessary renewals are made on time.

The Contractor will be responsible for assuring that all of its personnel hold valid state and local certifications at all times to meet the contractor's responsibilities under the contract.

8. COMPLIANCE WITH LAWS AND REGULATIONS

All services furnished by the Contractor under the contract shall be rendered in full compliance with all applicable federal, state, and local laws, ordinances, rules and regulations.

9. EQUAL OPPORTUNITY

It is expected during the performance of the contract, all Contractor employees will be treated under the requirements of an Equal Employment Opportunities employer and honor all protected rights afforded to employees under the law. The Contractor will be advised of any complaints filed with the City alleging that the Contractor is

not operating in good faith as an equal employment opportunity employer. The City reserves the right to consider such complaints, along with other considerations, in determining whether or not to terminate this contract.

10. CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

In 2015, the Texas Legislature adopted House Bill 1295. The Texas Government Code §2252.908, and the rules issued by the Texas Ethics Commission found in Title 1, Sections 46.1, 46.3 and 46.5 of the Texas Administrative Code, require a business entity to submit a completed Form 1295 to the City before the City may enter into a contract with that business entity. 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 law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least $1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

Form 1295 must be completed online. In Box 3 of the form, provide the solicitation number shown on the cover page of this solicitation (e.g. IFB 6100001234, RFO 6100001234 or RFCSP 6100001234). The form is available from the Texas Ethics Commission by accessing the following web address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

Print the completed Form 1295 showing the Certification Number and Date Filed in the Certification of Filing box at the upper right corner. Sign Form 1295 in front of a notary and submit it with a response to any City solicitation or contract.

The following definitions found in the statute and Texas Ethics Commission rules may be helpful in completing Form 1295.

“Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

“Controlling interest” means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

"Interested party" means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity.

"Intermediary", for purposes of this rule, means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

a. receives compensation from the business entity for the person's participation;
b. communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
c. is not an employee of the business entity.

SAMPLE CAN BE FOUND IN APPENDIX 3, PAGE 24

11. HOUSE BILL 89

House Bill 89, effective September 1, 2017, amended the Texas Government Code to add Chapter 2270, Prohibition on Contracts with Companies Boycotting Israel. Effective September 1, 2017, a state agency and a political subdivision (which includes a city) may not enter a contract with a company for goods or services unless the contract contains a written verification from the company that; (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract.

By accepting this purchase order, the Vendor (Professional or other applicable term defining the contracting party) verifies that it does not Boycott Israel, and agrees that during the term of this Agreement (Contract as applicable) will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

B. REQUIRED TABLE OF CONTENTS FORMAT FOR PROPOSALS

In order to ensure that the evaluation of the Proposals is as equitable as possible, all Proposals shall be submitted in the following format. Order and numbering conventions should be consistent with the required TABLE OF CONTENTS though the subtitles may not be required to match exactly. The order in which the content of the Proposal is as follows:

1. LETTER OF TRANSMITTAL

2. PROPOSAL PROVISIONS

   a. Introduction
      - Experience and Company History II.B.1
      - Services Rendered
      - Office Location

- Key Personnel
- Company Organizational Chart
- Field Operational Organization Chart
- Proposed Scope of Services — IV. B.
  - ✓ Communications & Dispatch — IV. C.
  - ✓ Personnel — IV. D
  - ✓ Clinical — IV. E.
  - ✓ Equipment & Supply — IV. F.
  - ✓ Reporting — IV. G.
  - ✓ FVFD, Mutual Aid & Community Events — IV. H. & Appendix 2

b. Financial Information
- Financial History & Capability — II.B.2.a
- Audited Financial Statements — II.B.2.a
- Documentation of Expertise in Medical Billing — II.B.2.a
- Evidence of existing Insurance — II.B.2.b & V.B. & C.
- Corporate or DBA Filings — II.B.2.c
- Pricing of Proposed Ambulance Charge Rates — IV. I.
- Projected Line Item Budget for EMS Services
  - ✓ Cost of Delivering Services
  - ✓ Estimated Income Analysis
  - ✓ Base the response, including cost/price quotes, on the contract commencement date

c. Objectives and Plans
- Implementation Plan to Provide Services
- Performance Plan
- Timeline Table to begin services

3. OPTIONS — IV.B. & IV.I.

4. EXCEPTIONS — VI.A.4

5. APPENDIX AND SUBMITTALS

a. Company legal organization paperwork filed with the State of Texas
b. Copies of State license to provide ambulance service
c. Affidavit signed by the President or CEO indicating that no employee/member of their company/organization that may work within the City of Friendswood has ever been convicted of any driving while intoxicated (DWI) offense, any drug-related offenses, or any felonies.
d. Affidavit signed by the President or CEO indicating the number of civil lawsuits pending
e. Affidavit signed by the President or CEO attesting that the company has never entered into Bankruptcy Protection
f. Provide Sample Contract for Services Provided
g. References

6. CLOSING SUMMARY

C. EVALUATION OF PROPOSALS

Proposals will be evaluated by the City of Friendswood. Investigation of Proposers' submission and services may be conducted as deemed necessary and such investigation could include a site visit should one be desired.

PROPOSALS WILL BE EVALUATED AS FOLLOWS

1. REVIEW OF QUALIFICATIONS

   Each Proposer's qualifications for providing 9-1-1 EMS service will be reviewed.

2. EVALUATION CRITERIA FOR AWARD

   Proposals will be evaluated according to the following criteria:

   a. Compliance with RFP – Proposals determined to be non-complaint with the RFP will be eliminated. Compliance means that the Proposal is submitted by a Proposer that has been qualified to submit a Proposal through the qualifying process; the mandatory Table of Contents has been followed, programs and offering described in the Proposal meet the prescribed minimum standards, and complete pricing information is submitted in the format stipulated in the RFP. **(1 - 10 Pts)**

   b. Qualifications of Proposer **(1 - 10 pts)**

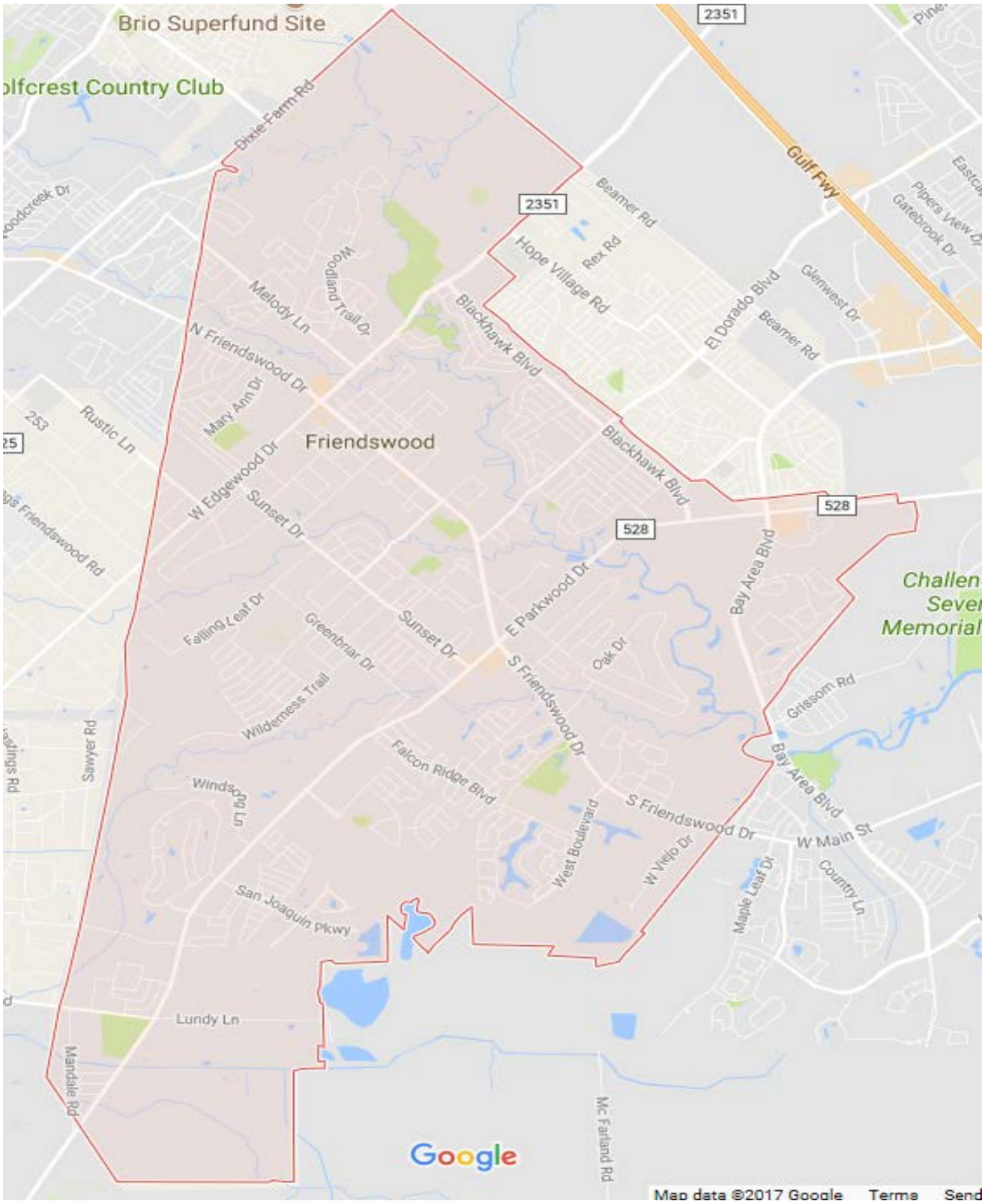
   c. Proposer's ability to effectively carry out its obligations under the agreement, including previous Emergency Medical Services experience **(1 - 35 pts)**

   d. Cost/Price Quotes **(1 – 35 pts)**

   e. References and Past Performance **(1 – 10 pts)**

THE AWARD SHALL BE MADE AT THE SOLE DISCRETION OF THE CITY TO THE PROPOSER WHOSE PROPOSAL IS DETERMINED TO BE THE MOST ADVANTAGEOUS TO THE CITY CONSIDERING THE RELATIVE IMPORTANCE OF PRICE AND THE OTHER EVALUATION FACTORS INCLUDED IN THE REQUEST FOR PROPOSAL

APPENDIX 1
SERVICE AREA MAP



APPENDIX 2
POTENTIAL CITY AND NON-CITY FUNCTIONS

The Proposer shall develop plans to participate in Community events for the following:

EVENTS COVERED BY SHIFT – NORMAL OPERATING SHIFT	
• Little League – Parade	
• Homecoming – Parade	
• Flapjack Fun Run	
• Blood draws for Friendswood Police Department/DWI Incidents	Participants will also need to be available for possible court testimony; this would possibly be an assignment for a Supervisor
EVENTS THAT WOULD NEED ADDITIONAL STAFFING	
HOLIDAY EVENTS	
o 4th of July	First Aid (Parade & Festival) 4 medics x 5 hours
	Fireworks 8 medics x 6 hours
o Christmas In the Park & Parade	4 medics x 5 hours
o Halloween In the Park	4 medics x 5 hours
• Immunizations	6 events throughout the year x 5 hours each
ADDITIONAL EVENTS REQUIRING STAFFING THROUGH THIRD PARTY AGREEMENTS	
• Friendswood ISD	Sporting Events
• Miscellaneous	Privately Sponsored Functions
• Music Festival	

APPENDIX 3
SAMPLE -- CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

CERTIFICATE OF INTERESTED PARTIES **FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 **Name of business entity filing form, and the city, state and country of the business entity's place of business.**

2 **Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

3 **Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 **Check only if there is NO Interested Party.** ☐

6 **AFFIDAVIT** I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____, to certify which, witness my hand and seal of office.

_____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

Form provided by Texas Ethics Commission www.ethics.state.tx.us Adopted 10/5/2015

EMS RFP 2017-04 - Ground Emergency Ambulance Services Scoring Totals	
Friendswood Volunter Fire Department	8.27
AMR - American Medical Response	8.11
Concord EMS	7.35
Acadian Ambulance Services	7.35
Clear Lake Emergency Medical Corps	6.49
City Ambulance Service	5.03

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 7.2.18

Date Submitted: 6.21.18 Dept. Clearances: Katina Hampton

Prepared by: Rhonda Bloskas

Subject: Disposition of RFP No. 2018-14 for Audit Services

Originating Department: Administrative Services City Attorney Review: N/A

Proceeding: Discussion and Action

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required:	N/A	Amount Budgeted: N/A
Appropriation Required:	N/A	Source of Funds: N/A

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The City's contract with the current audit firm has expired and staff has chosen not to use the option to extend for three additional years. The City issued a request for proposal for audit services on May 9, 2018 (RFP 2018-14) for fiscal years ending September 30, 2018, 2019, and 2020 with the option of auditing the City financial statements for the three subsequent fiscal years. There were four firms that responded to this request.

Cost: The four proposals included the following average estimated fees for the next three years:

Pattillo, Brown & Hill, L.L.P.	$45,483
Whitley Penn, LLP	$52,967
Belt-Harris Pechacek, LLLP	$54,685
Weaver & Tidwell, L.L.P.	$70,750

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The City is required by its charter to have an independent audit by a certified public accountant at the end of each fiscal year.

RECOMMENDATIONS

Although, Pattillo, Brown & Hill, LLP had a lower average price over the next three years, the firm did not meet the other evaluation criteria included in the request for proposal (mandatory elements, technical qualifications and ability to meet stated deadlines). As a result, we recommend the City engage Whitely Penn, LLP. Whitley Penn, LLP is a reputable firm with excellent credentials and we believe the firm will provide quality audit services.

In accordance with the Texas Government Code's Professional Services Procurement Act, we are requesting permission to negotiate with Whitley Penn to obtain the fee range included in their engagement letter.

ATTACHMENTS

Dollar Cost Bid

whitleypenn

CPAs and Professional Consultants

City of Friendswood, Texas

Sealed Dollar Cost Bid Proposal

Professional Auditing Services

June 12, 2018

Guadalupe R. Garcia, CPA
3737 Buffalo Speedway, Suite 1600
Houston, Texas 77098
832-573-6825 (Mobile)
Lupe.Garcia@whitleypenn.com

AICPA
GAQC Member

A member of Nexia International

whitleypenn

Houston Office
3737 Buffalo Speedway
Suite 1600
Houston, Texas 77098
713.621.1515 Main

whitleypenn.com

Certification

I hereby certify that I am entitled to represent the firm, empowered to submit the fee estimate and authorized to sign a contract with the ***City of Friendswood, Texas*** *("Friendswood" or "the City").*

Guadalupe R. Garcia 6/8/2018

Guadalupe R. Garcia, CPA, Audit Partner *Date*

Obviously, fee considerations are an important factor in selecting a firm for professional services such as auditing and consulting. In this regard, we welcome input on our fee estimate levels during the proposal process. As you are aware, we would very much like to have the opportunity to serve the City of Friendswood and would welcome the opportunity to discuss the appropriateness of our fee estimate levels, especially if they become a significant factor in making our firm the City's choice.

We would expect to remain within any negotiated fee level unless factors considered by us in estimating the fee level change significantly. Should circumstances dictate that material increases in our time requirements are necessary, we would discuss this with management and City Council immediately. We would not bill the City for amounts in excess of our negotiated fees without first discussing the matter and receiving approval from management. Fees for our services are based on our standard hourly rates. We will bill the City on a monthly basis as the work progresses. Our standard hourly rate for consulting work or other engagements are those shown on the following pages. For this engagement we have provided a discount in developing the total all-inclusive maximum price.

APPENDIX G

Part 1

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES FOR THE AUDIT OF THE 2018 FINANCIAL STATEMENTS

	Hours	Standard Hourly Rates	Quoted Hourly Rates	Total
Partners	40	$ 285	$ 245	$ 9,800
Managers	60	210	160	9,000
Supervisory staff	100	180	140	12,500
Staff	100	170	130	10,500
Other (specify)	CAFR Preparation			5,000
Subtotal	300			$ 46,800

Total for services described in Section II E of the request for proposals (Details on Subsequent Schedules)

Single Audit - One Major Program $ 5,500

Out-of-pocket expenses: $

Meals and Lodging

Transportation

Other (specify):_____

Total all-inclusive maximum price for 2018 Audit $ 52,300

APPENDIX G

Part 2

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES FOR THE AUDIT OF THE 2019 FINANCIAL STATEMENTS

	Hours	Standard Hourly Rates	Quoted Hourly Rates	Total
Partners	40	$ 285	$ 250	$ 10,000
Managers	60	210	155	9,300
Supervisory staff	100	180	130	13,000
Staff	100	170	105	10,500
Other (specify)	CAFR Preparation			5,000
Subtotal				$ 47,800

Total for services described in Section II E of the request for proposals (Details on Subsequent Schedules)

Single Audit - One Major Program $ 5,500

Out-of-pocket expenses: $

Meals and Lodging

Transportation

Other (specify):_____

Total all-inclusive maximum price for 2019 Audit $ 53,300

APPENDIX G

Part 3

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES FOR

THE AUDIT OF THE 2020 FINANCIAL STATEMENTS

	Hours	Standard Hourly Rates	Quoted Hourly Rates	Total
Partners	40	$ 285	$ 250	$ 10,000
Managers	60	210	155	9,300
Supervisory staff	100	180	130	13,000
Staff	100	170	105	10,500
Other (specify)	CAFR Preparation			5,000
Subtotal				$ 47,800

Total for services described in Section II E of the request for proposals (Details on Subsequent Schedules)

Single Audit - One Major Program $ 5,500

Out-of-pocket expenses: $

Meals and Lodging

Transportation

Other (specify):_____

Total all-inclusive maximum price for 2020 Audit $ 53,300

Audit fees for the three (3) one-year (1) extension options would be 102% of the prior-year audit fee.

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 02, 2018

Date Submitted: 06/27/2018 Dept. Clearances: Melinda Welsh/CSO

Prepared by: Melinda Welsh

Subject: Updating the Appointment Policy for Boards, Committees and Commissions with amendments

Originating Department: City Secretary's Office City Attorney Review: Yes

Proceeding: Discussion and Possible Action

Degree of importance: Critical ☐ Significant ☐ Elective ☒

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: N/A

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

At the Council retreat on June 02, 2018, Council briefly discussed the City's appointment policy for boards, committees and commissions. Mayor, Council, and Staff reviewed the policy for any needed changes and those proposed amendments are incorporated into the 2018 update. The majority of the proposed changes are routine. There are no major changes to the policy.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

To keep the City's Appointment Policy current to meet the city's changing needs.

RECOMMENDATIONS

That Council considers the proposed amendments.

ATTACHMENTS

DRAFT 2018 Appointment Policy Update-all pages redline version

APPOINTMENT TO CITY BOARDS, COMMISSIONS AND COMMITTEES

CITY OF FRIENDSWOOD ADMINISTRATIVE POLICIES AND PROCEDURES

ADOPTED AUGUST 5, 1996
AMENDED JUNE 19, 2000
AMENDED JUNE 26, 2006
AMENDED FEBRUARY 5, 2007
SUSPENDED JULY 12, 2010
RE-ADOPTED AND AMENDED JANUARY 5, 2015
AMENDED JULY 10, 2017

CITY OF FRIENDSWOOD

ADMINISTRATIVE POLICIES AND PROCEDURES

Appointments to City Boards, Commissions, and Committees

I. PURPOSE

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, this policy sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

The Mayor of the City of Friendswood has the authority under the City Charter to appoint special committees as he/she deems advisable and as instructed by Council (City Charter Section 3.05). Special committees established for these specific purposes are usually of limited duration. The Council may apply these policies and procedures to special committees as deemed necessary.

II. POLICY

This policy sets forth the comprehensive process for appointments to the City's boards, commissions, and committees, including advertising for candidates, application forms, and processing information to the City Council; appointment timetable; attendance records; letters of appointment; oaths of office; and letters of appreciation.

III. COUNCIL LIAISONS

A Councilmember will be appointed annually by Mayor and Council as liaison to various boards, commissions, and committees. Liaison appointments will generally be made no later than the second regular meeting of the Council following the May General election. The Council Liaison shall serve as a conduit of information between the City Council and the board, commission, or committee and shall provide information.

An information sheet listing all standing boards, commissions, and committees and Council Liaisons (at the time this policy is approved) is included as Exhibit A. A synopsis of most of the standing boards, commissions, and committees is included as Exhibit B.

IV. PROCEDURES

Sec. 4.01. Uniform Appointment Date

All ordinances, resolutions, and laws governing appointments to boards, commissions, and committees of the City of Friendswood shall be written in such a manner that the appointments shall be effective on two uniform dates each year in July and November.

Sec. 4.02. Applicable Laws and Ordinances

All boards, commissions, and committees shall act in accordance with the authority granted to them through applicable state law, charter provision, and/or directives and policies of the City Council.

Because of their special responsibilities, some members of boards, commissions, and committees are considered officers. Officers hold special decision-making duties. As a result, certain sections of these policies will require different levels of commitment and responsibility. Boards, commissions, and committees whose members are considered officers are the Planning and Zoning Commission, Zoning Board of Adjustment and Appeals, Construction Board of Adjustment and Appeals, and Charter Review Commission.

Sec. 4.03. Terms of Office

Each term of service on a board, commission or committee will be for a three-year period unless otherwise directed by Council or otherwise provided by law, except for the Charter Review Commission, which is a six-month term and Zoning Board of Adjustment and Appeals which requires a 2-year term by statute (LGC 54.033 and 211.008). **No member/officer shall be elected to serve as Chair or Vice Chair for more than four terms unless otherwise directed by Council**. Beginning with the most recent amendment and re-adoption of this policy on July 10, 2017, all existing board, commission or committee member's terms start at year zero.

Sec. 4.04. Oaths of Office

Oaths of Office appropriate to the position held and in accordance with the provisions of Section 6.05 of the City Charter (Every officer of the City, whether elected or appointed, before entering upon the duties of office, shall take and subscribe to the appropriate oath or affirmation to be filed and kept in the office of the City Secretary) will be administered to all newly appointed or reappointed members to the Planning & Zoning Commission, Zoning Board of Adjustment and Appeals, Construction Board of Adjustment and Appeals, and Charter Review Commission at the first regular meeting of the board, commission, or committee or as soon as possible after appointment. Oaths of office for appointed officers are included as Exhibit C.

Arrangements to receive oaths of office at another time may also be made at the discretion of the City Secretary or whomever is authorized by law to give the oath such as a notary public.

Sec. 4.05. Rules and Regulations

All boards, commissions, and committees shall follow procedures of conduct set out in Robert's Rules of Order. All board, commission, and committee meetings shall have an agenda and record the action by keeping minutes. Advisory boards, commissions, and committees **shall not be required** to comply with the Texas Open Meetings Act. However, the Planning and Zoning Commission, Zoning Board of Adjustment and Appeals, Construction Board of Adjustment and Appeals, Friendswood Downtown Economic Development Corporation, and Charter Review Commission shall comply with the Texas Open Meetings Act.

Some boards, commissions, and committees may find it desirable or be directed to adopt rules of procedure. All such rules of procedure shall be approved by the City Council. Any amendments shall also be approved by City Council.

Sec. 4.06. Appointment of Officers/Members

Officers or members of each of the City's boards, commissions, and committees will be appointed in accordance with any applicable ordinances, state laws, or City Charter. Chair and Vice Chair may be rotated following the appointment and reappointment time frame but may not serve more than four terms, unless otherwise approved by Council. Officers of the Planning and Zoning Commission, Zoning Board of Adjustment and Appeals, Construction Board of Adjustment and Appeals, Friendswood Downtown Economic Development Corporation, and the Charter Review Commission are required to be a resident of Friendswood. Members of advisory boards, or committees are not required to be a resident of the city; however, a quorum of members from those advisory boards or committees must never be from outside of the city. All newly appointed officers/members shall be reported to the City Secretary for inclusion in the Boards, Commissions, and Committees' rosters.

Sec. 4.07. Providing and Maintaining Records

The City Secretary's office shall keep an up-to-date official record of pertinent information on each board, commission, and committee in an official notebook. City Staff Liaisons to the boards, commissions, and committees will be responsible for providing to the City Secretary's office up-to-date information of names, addresses, and telephone numbers for their boards, commissions, and committee members. Each Staff Liaison will maintain a historical list of boards, commission and committee members which their department supports.

Sec. 4.08. Attendance Policy and Records

Attendance records shall be maintained by all City Staff Liaisons providing support to the various City boards, commissions, and committees. The records will be available by request to the boards, commissions, and committees members at each regular meeting.

The attendance record will be provided to the City Secretary's office when the appointment/reappointment process takes place for that committee.

It shall be the responsibility of each member to attend meetings regularly. Three consecutive unexcused absences or the absence of an advisory board or committee member from more than 50 percent of the meetings in a six-month period shall be cause for Council to review the attendance record and make a recommendation on the continued service of that member. Three consecutive unexcused absences or the absence of a member considered to be an officer from more than 20 percent of the meetings in a six-month period shall be cause for Council to review the attendance record and make a recommendation on the continued service of that officer. Examples of excused absences include illness, business reasons, death of family members, etc.

Attendance at all regular meetings, special meetings, and work sessions by each board, commission, and committee member will be recorded on an attendance record form (Exhibit No. D), and absences shall be noted as excused or unexcused by the Chair.

Sec. 4.09. Information Packets

Each applicant shall receive a packet of information about the committee, its purpose, members, meeting schedule and location, and any other information, such as rules of procedure, as requested.

V. Appointments

Sec. 5.01. Applications

All citizens interested in being appointed or reappointed to a board, commission or committee must have an up-to-date application on file or submit a completed application (Exhibit No. E) to the City Secretary. New applications will be forwarded to the Staff Liaison of the appropriate board, commission or committee. At the established time, applications will be distributed by the City Secretary's office to the Mayor and City Council.

The City Secretary shall provide an application to citizens upon request, as well as information sheets on the various boards, commissions, and committees.

The City Secretary shall advertise at least once a year, or as needed,~~in the months of April and August~~, in the news media and as otherwise directed by City Council, an invitation to citizens to submit an application indicating their interest and qualifications to serve on a board, commission, or committee. The members of boards, commissions, and committees to be appointed in July are the Planning and Zoning Commission, Zoning Board of Adjustment and Appeals, Construction Board of Adjustment and Appeals, Library Board of Trustees, Community and Economic Development Committee, and Charter Review Commission (to be appointed in July every 5 years or as called by Council). Members of boards, commissions, and committees to be appointed in

November are Fourth of July Steering Committee, Keep Friendswood Beautiful, Senior Citizen Advisory Committee, and Investment Committee.

All applications submitted to the City Secretary will be date stamped RECEIVED, e-mailed to the Staff Liaison to the committee(s) and will be retained by the City Secretary for a period of three (3) years, according to the applicable rules in the adopted records retention schedule. The applications will be used in making appointments to boards, commissions, and committees for expiring terms of office and as vacancies occur.

The City Secretary will send a letter to each board, commission, and committee member who has an expiring term of office to determine if the member wishes to be considered for reappointment and/or to update the application on file.

Sec. 5.02. Appointment Process

By the end of May and September of each year, the City Secretary will notify the Staff Liaison what members/officers would like to be reappointed and who would not. The Staff Liaison will contact the Council Liaison to discuss the candidates for appointment/reappointment. Council liaisons, chairpersons, vice chairpersons, staff, or other members/officers may interview new candidates to be considered prior to the appointments. The Council Liaison to the board, commission or committee will contact the Mayor on the proposed appointments/reappointments and obtain his concurrence. The Council Liaison will notify the City Secretary who will then prepare an Agenda Item form for the July or November Council meeting to have the appointments/reappointments approved by Mayor and Council.

~~The City Secretary may be directed to notify applicants of an interview process and the date and time of a desired interview.~~

Appointments shall be made to boards, commissions, and committees at the regular monthly Council meeting in July and November or as soon thereafter as possible. Appointments will be effective July and November, respectively.

A congratulatory letter (Exhibit No. F) will be prepared by the City Secretary's office for all newly appointed or reappointed members to the City's boards, commissions, and committees.

All members/officers of the boards, commission and committees **must** complete Open Meetings Act (OMA) Training administered by the Texas Attorney General within 90 days as required by law and **must** provide their certificate of completion to the City Secretary's office.

Sec. 5.03. Selection Criteria

Selection of members to boards, commissions, and committees shall be made considering the stated interest and desire of the applicant to serve. Other criteria will be

the applicant's availability, qualifications, personal background, and any special skills he/she may have.

Members selected should not only be qualified, but also show a desire and commitment to serve in the capacity they are appointed.

Appreciation letters will be sent by the City Secretary to all individuals who were not appointed. They will be advised that their application will be retained for three years~~ and that they will be notified as other vacancies and/or expiring terms of office occur during the year~~.

Sec. 5.04. Filling Vacancies

Vacancies on boards, commissions, and committees caused by resignations will be filled throughout the year as they occur in order to complete unexpired terms of office. When a vacancy occurs, the Staff Liaison of the board, commission, or committee shall notify the City Secretary.

Appointments to fill vacancies will be made at a Council meeting by a majority of City Council from the list of applicants provided on the Agenda Item form completed by the City Secretary.

Should there be no current applicants for the vacancy, the City Secretary shall follow the procedures previously described to seek new applicants.

EXHIBIT A

FRIENDSWOOD CITY COUNCIL LIAISONS
2018–2019

COUNCILMEMBER	COMMITTEE
Robert Griffon John Scott (alternate)	Clear Creek Watershed Steering Committee
Trish Hanks Carl Gustafson (alternate)	Community & Economic Development Committee
Trish Hanks Steve Rockey (alternate)	4th of July Steering Committee
Trish Hanks John Scott (alternate)	Galveston County Commissioners Court
Robert Griffon John Scott (alternate)	Galveston County Consolidated Drainage District
All City Council Members	Galveston County Mayors' & Councils' Association
Carl Gustafson Steve Rockey (alternate)	Gulf Coast Authority
Sally Branson Mike Foreman (alternate)	H-GAC
Carl Gustafson Robert Griffon (alternate)	Harris County Commissioners Court
All City Council Members	Harris County Mayors' & Councils' Association
Staff/CMO	Homeowner's Associations
Sally Branson Trish Hanks (alternate)	Keep Friendswood Beautiful
Steve Rockey John Scott (alternate)	Library Board
Sally Branson Carl Gustafson (alternate)	Planning & Zoning Commission
Robert Griffon Trish Hanks (alternate)	Senior Citizens Advisory Committee
Steve Rockey Sally Branson (alternate)	Zoning Board of Adjustment & Appeals

None Required: Investment Committee, Construction Board of Adjustment & Appeals and Charter Review Commission

EXHIBIT B

PLANNING AND ZONING COMMISSION

Number of members:	7 regular	**Term of Office:**	3 years Overlapping terms
Established by:	City Code, Section 2-69; LGC Sections 211 & 212		
Appointed By:	City Council		
Regular Meetings:	1st and 3rd Thursday of the month		
Time:	7:00 PM		
Location:	Friendswood City Hall 910 S. Friendswood Drive		
Compensation:	None		
Officers:	Chair & Vice Chair selected every 3 years by Commission members. Officers will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.		
Staff Support:	Director of Community Development, Deputy Director of Community Development, City Planner, Development Coordinator		
Council Liaison:	Yes; appointed by City Council		

Duties of the Commission: The Commission shall submit recommendations to the City Council, after holding public hearings, on any change or amendment to any of the provisions of the Zoning Ordinance or the Zoning Districts Map; any request for a specific use permit or planned unit development; any change or amendment to the subdivision ordinance; and any related request by Council. In public meeting, the commission also reviews and approves commercial site plans, preliminary and final plats, and subdivision developments. The commission also acts in the capacity of the Capital Improvements Advisory Committee created by Section 395.058 of the Texas Local Government Code.

ZONING BOARD OF ADJUSTMENT & APPEALS

Number of Members:	5 regular 4 alternates	**Term of Office:**	2 years Overlapping terms

Established by: City Code, Appendix C-Sections 10 - 13. LGC, Sections 211.008 - 211.011.

Appointed by: City Council

Regular Meetings: 4th Tuesday of the month, as needed, unless a holiday falls during the week of meeting date, is then moved to 3rd Tuesday of the month.

Time: 7:00 PM

Location: Friendswood City Hall
910 S. Friendswood Dr.

Compensation: None

Officers: Chair & Vice Chair elected every 2 years by members. Officers will be appointed for two-year terms as required by statute (LGC 54.033 and 211.008). Chair and Vice Chair may not serve more than four terms, unless otherwise approved by Council.

Staff Support: Building Official, City Planner, Development Coordinator.

Council Liaison: None

Duties of the Board: This board hears and rules on requests for appeals, special exceptions and variances to the Zoning Ordinance and authorizes variances from the zoning ordinance when not contrary to the public interest. This board also serves as the appeals board for Fire and Life Safety Codes, Flood Damage Prevention Code (City Code, Section 34-41), and Building and Standards Commission (BASC) (City Code, Section 14-319).

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

Number of Members:	7 regular 2 alternates (if desired)	**Term of Office:**	~~2~~3 years ~~Overlapping terms~~
Established by:	City Code, Chapter 14; Articles II Standard Building Code, Section 105.1		
Appointed by:	City Council		
Regular Meetings:	As needed		
Time:	7:00 PM		
Location:	Friendswood City Hall 910 S. Friendswood Drive		
Compensation:	None		
Officers:	Chair & Vice Chair are selected every two years by members. Officers will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.		
Staff Support:	Building Official		
Council Liaison:	No		

Duties of the Board: The Construction Board of Adjustments and Appeals shall have the power to hear appeals of decisions and interpretations of the building official and consider variances of the technical codes. Membership of the board should be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors, or building industry representatives. Alternate members, if appointed, should consist of a member at-large from the building industry and one member at-large from the public.

FRIENDSWOOD PUBLIC LIBRARY ADVISORY BOARD

Number of Members:	7 regular 3 alternate	**Term of Office:**	3 years Overlapping terms

Established by:	Ordinance 173 effective November 22, 1972
Appointed by:	City Council
Regular Meetings:	3rd Tuesday of the month, as needed
Time:	7:00 PM
Location:	Friendswood Public Library 416 S. Friendswood Dr.
Compensation:	None
Officers:	Chair and Vice Chair are selected by members. Officers will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.
Staff Support:	Library Director Assistant Library Director Assistant to the Library Director
Council Liaison:	Yes; appointed by Council

Duties of the Board: The purpose of the Advisory Board of the Friendswood Public Library is to establish general library policy, represent the public and its interest in the operation of the library, secure from the people of Friendswood support for the Library, and to interpret the needs of the people to the City Council.

COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE

Number of Members: ~~9~~7 regular **Term of Office:** 3 years
Overlapping terms

Ex Officios: Chamber of Commerce representative
Planning & Zoning Commission representative

Clear Creek Independent School District representative, Friendswood Independent School District representative

Established by: Council action February 15, 1993

Appointed by: City Council

Regular Meetings: 1st Wednesday of the month

Time: ~~8~~3:30 ~~A~~PM

Location: Friendswood City Hall
910 S. Friendswood Drive

Compensation: None

Officers: Chair and Vice Chair are selected by members.
Officers will be appointed for a three-year term following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.

Staff Support: Economic Development Coordinator

Council Liaison: Yes; appointed by City Council

Duties of the Committee: To encourage commercial and industrial developments which are compatible with the image of Friendswood; provide recommendations to the City Council regarding codes, ordinances, policies, and procedures that assist economic development; and conduct surveys of citizens and businesses to gain understanding of economic development which is compatible with the city's interest, needs, and image.

CHARTER REVIEW COMMISSION

Number of Members:	7 regular	**Term of Office:**	6 months
Established by:	City Charter		
Appointed by:	City Council		
Regular Meetings:	As called		
Time:	As called		
Locations:	Friendswood City Hall 910 S. Friendswood Drive		
Compensation:	None		
Officers:	Chair and Vice Chair are selected by members.		
Staff Support:	City Manager City Secretary City Attorney		
Council Liaison:	No		

Duties of the Commission: The Charter Review Commission is appointed by the Council approximately every five years. The commission inquires into the operation of the city government under the Charter provisions, determines whether any such provisions require revision and performs such other duties as set forth in Section 11.09 of the Friendswood City Charter.

FOURTH OF JULY STEERING COMMITTEE

Number of Members:	20 Regular	**Term of Office:**	3 years Overlapping terms
Established by:	Council Action		
Appointed by:	City Council		
Regular Meetings:	3rd Wednesday of the month		
Time:	6:00 PM		
Location:	Friendswood City Hall 910 S. Friendswood Drive		
Compensation:	None		
Officers:	Chair & Vice Chair are selected by members. Members will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.		
Staff Support:	Director of Parks and Recreation		
Council Liaison:	Yes, appointed by City Council		

Duties of the Board: The Fourth of July Steering Committee is to assist staff in organizing, planning, coordinating, and overseeing the annual City of Friendswood Fourth of July activities and any other related functions requested by the City Council.

KEEP FRIENDSWOOD BEAUTIFUL

Numbers of Members:	20 regular	**Term of Office:**	3 years Overlapping terms

Established by:	City Council January 15, 1973, as Civic Beautification Committee City Council, January 25, 2010, from Community Appearance Board to Keep Friendswood Beautiful Committee
Appointed By:	City Council
Regular Meetings:	4th Tuesday of the month
Time:	6:30 PM
Location:	Friendswood City Hall 910 S. Friendswood
Compensation:	None
Officers:	Chair and Vice Chair are selected by members. Members will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.
Staff Support:	Director of Parks and Recreation
Council Liaison:	Yes; appointed by City Council

Duties of the Board. The mission of the Keep Friendswood Beautiful Committee (KFB) is to enhance the aesthetic appearance of the city and to encourage residents to take an active role in maintaining its image. The KFB directs and coordinates management and planning of its projects and education of the community; recommends budget and project priorities to City Council; seeks grants for funding opportunities; makes suggestions for conserving and protecting natural resources; and performs such other duties as the City Council may reasonably request.

Keep Friendswood Beautiful also serves as the advisory committee for the City's Storm Water Management Program (last updated 2014) per TCEQ.

SENIOR CITIZEN ADVISORY COMMITTEE

Number of Members:	8 regular 1 alternate	**Term of Office:**	3 years Overlapping terms

Established by: Council action 1993

Appointed by: City Council

Regular Meetings: 2nd Tuesday of the month as needed

Time: 9:00 AM

Location: Activities Building
416 Morningside

Compensation: None

Officers: Chair and Vice Chair are selected by members.
Members will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.

Staff Support: Director of Parks and Recreation
Recreation Superintendent

Council Liaison: Yes; appointed by City Council

Duties of the Board: The Committee acts only in an advisory capacity to the City Council in all matters pertaining to Friendswood's Senior Citizens Program; acquaints itself with and makes a continuous study and review of the program; recommends the adoption of policies for the program; recommends to the City Council rules and regulations governing the program; makes recommendations to the City Council and City Manager and reasons therefore; and performs other duties as the City Council may reasonably request.

INVESTMENT COMMITTEE

Number of Members:	3 regular No Alternates	**Term of Office:**	3 years
Established by:	Council action January 1997		
Appointed by:	City Council		
Regular Meetings:	Quarterly		
Time:	4:00 PM or at the call of the Chair		
Location:	Friendswood City Hall/Administrative Services Department		
Compensation:	None		
Officers:	Members will be appointed for three-year terms following the appointment and reappointment time frame. Chair and Vice Chair may not serve more than four three-year terms, unless otherwise approved by Council.		
Staff Support:	Investment Officer		
Liaison/Deputy:	City Manager		
Council Liaison:	No		

Duties of the Committee. To review the investment practices of staff and ensure these are in accordance with the Investment Policy.

EXHIBIT C

In the name and by the authority of

The City of Friendswood
and
The State of Texas

STATEMENT OF APPOINTED OFFICER

(Pursuant to Tex. Const. art XVI, §1(b), amended 2001)

I, **_____,** do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

_____
Affiant's Signature

_____
Position to Which Appointed

City of Friendswood, Galveston/Harris
City and/or County

SWORN TO and subscribed before me by affiant on this ____ day of _____ 2018.

_____
Signature of Person Authorized to Administer Oaths / Affidavits

_____
Printed Name

_____
Title

In the name and by the authority of

The City of Friendswood
and
The State of Texas

OATH OF OFFICE

I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ for the City of Friendswood, Galveston/Harris Counties, and the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.

_____
Affiant

SWORN TO and subscribed before me by affiant on this _____ day of _____ 2018.

_____
Signature of Person Administering Oath

_____
Printed Name

_____
Title

EXHIBIT D

ATTENDANCE REPORT

BOARD/COMMITTEE/COMMISSION: _____

REPORTING PERIOD _____ – _____
Mo/Yr Mo/Yr

MEMBERS	MEETINGS	2017						2018						TOTALS	
Name/Place No.	TYPE	JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APRIL	MAY	JUNE	Present	Absent
REGULAR MEMBERS: CHAIR	Regular	N	X	X	X	N	N	N	N	X	N	X	N	6	0
		O				O	O	O	O		O		O		
	Special				X										
Morgan, Jason		M				M	M	M	M		M		M		
VICE CHAIR	Regular	E	X	X	X	E	E	E	E	--	E	X	E	5	1
		E				E	E	E	E		E		E		
	Special	T			X	T	T	T	T		T		T		
Jacks, Carly		I				I	I	I	I		I		I		
	Regular	N	X	X	X	N	N	N	N	X	N	X	N	6	0
		G				G	G	G	G		G		G		
	Special				X										
Cain, Drew		N				N	N	N	N		N		N		
	Regular	O	X	X	X	O	O	O	O	X	O	--	O	5	1
	Special	M			X	M	M	M	M		M		M		
Reeves, Nina		E				E	E	E	E		E		E		
	Regular	E	X	X	X	E	E	E	E	X	E	X	E	6	0
		T				T	T	T	T		T		T		
	Special	I			X	I	I	I	I		I		I		
McCall, Sam		N				N	N	N	N		N		N		
ALTERNATE MEMBERS:	Regular	G	X	X	X	G	G	G	G	X	G	X	G	6	0
	Special	N			X	N	N	N	N		N		N		
Ashford, Jordan		O				O	O	O	O		O		O		
	Regular		X	X	X					X		X		5	1
		M				M	M	M	M		M		M		
	Special	E			--	E	E	E	E		E		E		
Jones, Maxie		E				E	E	E	E		E		E		
	Regular	T	X	X	X	T	T	T	T	X	T	X	T	5	1
		I				I	I	I	I		I		I		
	Special	N			--	N	N	N	N		N		N		
Davis, Molly		G				G	G	G	G		G		G		
	Regular		X	X	X					X		X		6	0
		N				N	N	N	N		N		N		
	Special	O			X	O	O	O	O		O		O		
Spencer, Laura															
Staff Liaison	Regular	M	X	X	X	M	M	M	M	X	M	X	M	6	0
		E				E	E	E	E		E		E		
	Special	E			X	E	E	E	E		E		E		
Devane, Anna		T				T	T	T	T		T		T		
Staff Liaison/Secretary	Regular	I	X	X	X	I	I	I	I		I		I	4	
Coe, Lucy	Special	N			X	N	N	N	N		N		N		
	Regular	G				G	G	G	G	X	G	X	G	2	
Ashton, Ned	Special														

In order to insure that all boards and commissions members contribute by attending regular scheduled and special meetings of their respective board or commission, the Council has directed that attendance records be kept by City Staff and forwarded to members for their review. ATTEND: **X** ABSENT: **--**

EXHIBIT E

BE A FRIENDSWOOD VOLUNTEER

It is the desire and intent of City Council to encourage and support citizen participation in an advisory capacity governing the affairs of the City. Service through membership on a board, commission, or committee is a valued, important opportunity for participation in an advisory capacity. To these ends, a policy has been adopted that sets out an orderly process for citizens interested in serving as members of a City board, commission, or committee and for the City Council to oversee appointments.

THIS INFORMATION WILL BECOME PUBLIC RECORD

VOLUNTEER APPLICATION

NAME: _____ HOME PHONE: _____

HOME ADDRESS: _____ WORK PHONE: _____

EMAIL ADDRESS: _____ CELL PHONE: _____

OCCUPATION: _____

SPECIAL INTERESTS AND TALENTS: _____

_____

Are you currently serving as a member of any Friendswood governmental body? _____

If so, please name the body: _____

AREAS OF INTEREST

Please indicate your primary and secondary interests.

GENERAL ADMINISTRATION

_____ ELECTION WORKER

PLANNING & PRESERVATION

_____ PLANNING & ZONING COMMISSION
_____ ZONING BOARD OF ADJUSTMENT & APPEALS
_____ KEEP FRIENDSWOOD BEAUTIFUL COMMITTEE
_____ COMMUNITY & ECONOMIC DEVELOPMENT
_____ CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS
_____ INVESTMENT COMMITTEE
_____ FRIENDSWOOD DOWNTOWN ECONOMIC DEVELOPMENT CORPORATION

I AM AVAILABLE FOR

_____ LONG-TERM PROJECTS
_____ SHORT-TERM PROJECTS
_____ DAYTIME
_____ EVENING
_____SUMMER

RECREATION

_____ 4TH OF JULY STEERING COMMITTEE
_____ 4TH OF JULY VOLUNTEER
_____ SENIOR CITIZENS ADVISORY COMMITTEE

EDUCATION

_____ LIBRARY BOARD
_____ LIBRARY VOLUNTEER

SPECIAL COMMITTEES AS CALLED

_____

_____

OTHER

_____ WEST RANCH MANAGEMENT DISTRICT
_____ ANIMAL SHELTER ADVISORY COMMITTEE
_____ VOLUNTEER FIRE DEPT/EMS
_____ CHARTER REVIEW (AS NEEDED)

Please use the space below for additional comments.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

These questions are asked because the City Council wants to maintain balance to insure proper representation on boards and commissions.

DATE OF BIRTH: _____
SEX: _____
FRIENDSWOOD RESIDENT FOR _____ YEARS

Have you been convicted of a crime, other than minor traffic violations in the past 10 years?_____

What experience do you have that may qualify you for service on a particular board or commission (i.e. license, degrees, and certificates)?

_____
_____
_____
_____

Please list any civic or community endeavors in which you have been involved: _____
_____
_____
_____

I hereby affirm the information provided herein is true and correct, to the best of my knowledge. I am aware a background check may be required.

I understand that the information provided on this application may be available to the public upon request and will be kept on file for at least three years.

_____ _____
Signature of Applicant Date

Thank you for taking the time to complete this application.

Please return the original application to the address below:

MELINDA WELSH
CITY SECRETARY
CITY OF FRIENDSWOOD
910 S. FRIENDSWOOD DRIVE
FRIENDSWOOD, TX 77546-4856
(281) 996-3270
FAX (281) 482-1634

CITY OF FRIENDSWOOD
BOARDS AND COMMISSIONS
INFORMATION STATEMENT AND APPLICATION

If you have ever been a member of a Friendswood Board, Committee or Commission before, please indicate the Board, Committee or Commission and appropriate dates of service.

Name of Board, Committee or Commission:	*Dates of Service:*
_____	_____
_____	_____
_____	_____
_____	_____

PERSONAL REFERENCES:

Please list at least two references.

NAME: _____

ADDRESS: _____

PHONE: _____

NAME: _____

ADDRESS: _____

PHONE: _____

Revised 06/22/17 mkw

EXHIBIT F

Date: _____

Mr. John Doe
10110 Lakeside Lane
Friendswood, TX 77546

Dear Mr. Doe:

On behalf of the Mayor and City Council, we would like to congratulate you on your recent appointment to the Planning and Zoning Commission. Your term begins_____ and ends _____. Attendance is very important, so an attendance record is kept at each meeting; therefore, it is the responsibility of each member to attend meetings regularly. Enclosed you will find a membership roster for the Planning and Zoning Commission.

The members of Boards, Commissions, and Committees of the City of Friendswood are required by law to complete Open Government Training. There are two ways to obtain the required training:

1. Attorney General's website at **https://texasattorneygeneral.gov/og/oma-training.** Select Open Meetings Act training video, and then complete the training online. Following the completion of the training, a certificate will be sent to you from the Attorney General's Office.

2. Check out the training CD from the City Secretary's Office. If you choose to utilize the CD option, at the end of the video, there is a code which will take you to the Attorney General's website to retrieve the certificate.

Training needs to be completed by _____, and a copy of the certificate needs to be forwarded to the City Secretary.

Please accept my congratulations on your appointment and if you have any questions, please do not hesitate to call me.

Sincerely,

Melinda Welsh, TRMC
City Secretary

Cc: Staff Liaison

Enclosure

Date: _____

Ms. Jane Doe
10111 Lakeside Lane
Friendswood, TX 77546

Dear Ms. Doe:

On behalf of the Mayor and City Council, we would like to congratulate you on your recent re-appointment to a three-year term on the Senior Citizens Advisory Committee. A new membership roster is enclosed.

If you have any questions, please do not hesitate to call me.

Sincerely,

Melinda Welsh, TRMC
City Secretary

Cc: Staff Liaison

Enclosure

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2018

Date Submitted: June 18, 2018 Dept. Clearances: RBW

Prepared by: Lisa Price

Subject: Letters of Agreement with Friendswood Independent School District (FISD) for School Resource Officers

Originating Department: Administrative Services City Attorney Review: Yes

Proceeding: Discussion and Action Item

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: $188,023.99 Amount Budgeted: $111,499.99

Appropriation Required: $76,524.00 Source of Funds: Unassigned General Fund Balance and General Fund Operating Budget

FINANCE APPROVAL: *krh*

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The City of Friendswood and the Friendswood Independent School District (FISD) have and continue to maintain a strategic partnership providing school resource officers for FISD campuses. The agreement, as presented, will continue an agreement for the School Resource Officers with some changes for the upcoming year. The changes are due to perceived school safety security concerns identified by FISD and include the addition of two School Resource Officers. In the agreement, FISD agrees to pay for the salary and fringe benefits for three SROs and the City will pay for one. The City also agrees to pay for vehicles, maintenance and fuel costs. Another addition to this year's agreement includes a provision for security safes/lockers to be purchased by FISD for police equipment to be situated on designated campuses.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The School Resource Officer program originated as a Safe and Drug-Free Schools program in 1999. When the grant ended in 2007, both the City and FISD agreed the program was valuable and thus began the 50/50 cost-sharing, as stipulated by the Federal government as a condition for grant approval. However, FISD has recently identified perceived gaps in school safety. Their needs assessment has prompted FISD to seek 2 additional officers to address FISD staff concerns. Failure to approve the request may result in FISD without campus police presence or the need to contract with another agency.

The salary and related benefits for one SRO position included in the agreement, as written, is budget neutral because the City's operating budget includes 50% of the cost of 2 SRO positions. However, due to the new provisions requested, the City will incur the cost of police officer equipment totaling $13,009, addition of a vehicle to the Police department's fleet totaling $50,244 with associated ongoing expenses for insurance, fuel, supplies and maintenance totaling approximately, $13,250 annually.

With respect to the CCISD (Clear Creek Independent School District) schools within Friendswood's corporate limits, CCISD contracts with the Galveston County Sheriff's Office for School Resource Officers.

RECOMMENDATIONS

Favorable approval of the agreement, authorizing the City Manager to execute a contract between the City and FISD.

ATTACHMENTS

FISD School Resource Officer Agreement 2018-2019
FPD School Safety Recommendations
FISD Board Presentation Safety and Security layers

INTERLOCAL AGREEMENT

BETWEEN THE CITY OF FRIENDSWOOD

AND

FRIENDSWOOD INDEPENDENT SCHOOL DISTRICT

(SCHOOL RESOURCE OFFICER AGREEMENT)

WHEREAS, pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code, the City of Friendswood, a Texas home-rule municipality (the "City"), and the Friendswood Independent School District, ("FISD"), an independent school district, may jointly exercise the power to provide governmental services for the public health, safety and general welfare; and

WHEREAS, the parties desire to enter into this Interlocal Agreement (this "Agreement"), for the provision of police services by the City in Friendswood High School, Friendswood Junior High School, and other FISD campuses; and

WHEREAS, all obligations of the parties will be funded from their respective current revenues; and

NOW, THEREFORE, this Interlocal Agreement is hereby made and entered into by the City and FISD for the mutual considerations stated herein and shall be effective upon execution by both parties;

THIS AGREEMENT made and entered into this _____ day of _____, 20_____, by and between the Friendswood Independent School District ("FISD"), and the City of Friendswood ("City") for the provision of police services by the City.

This agreement will confirm the City and FISD's discussions to jointly continue the School Resource Officer ("SRO") Program in a manner to reflect budget neutrality for the City. SRO guidelines and procedures have been jointly established and are in place. The terms of the agreement between the FISD and the City to conduct the SRO Program are as follows:

1. **DATES OF AGREEMENT.** This agreement will commence on September 1, 2018 and expire on August 31, 2019. This agreement may be extended or canceled by either of the participating agencies giving ninety (90) days written notice to the other participating agency. Should either party fail to appropriate funds necessary to fulfill the terms of this Agreement, it

shall give immediate notice to the other party and the Agreement shall expire upon close of the currently funded fiscal year or when current revenues are no longer available to fund this Agreement, whichever comes first.

2. **OFFICERS PROVIDED**. The Friendswood Police Department ("Department") will provide four (4) police officers to staff the SRO Program in accordance with the following schedule: The normal workday of an SRO will be from 8:00 a.m. to 4:00 p.m., Monday through Friday. The length and starting time of the day may be altered to meet special needs at the school. Changes in work schedule will be reported to the principal and the Department. This includes absences due to illness, injury, training or vacation. An SRO will report to the Department on days when the students are not in school. Two police officers will be assigned full-time to SRO duties at the Friendswood High School, one police officer will be assigned full-time to SRO duties at the Friendswood Junior High School, and one police officer will be assigned roving duties at all other FISD campuses, during the days students are scheduled to be at school for the 2018-2019 school year.

3. **COMPENSATION**. FISD shall pay the City of Friendswood Police Department the actual full cost of providing police services, including all salaries and benefits, including retirement contributions, City's Medicare contributions, and approved overtime for three full-time Friendswood Police Department police officers for the term of this Agreement, and will make those payments from current revenues available to FISD. If FISD is required to reduce the number of SROs it funds due to reduced budgeted funds, it will notify the City at the time the reduction in funding occurs and the Agreement shall expire upon close of the currently funded fiscal year or when current revenues are no longer available to fund this Agreement, whichever comes first.

4. **METHOD OF PAYMENT**. The City shall develop a detailed annual estimate of the actual full cost of rendering the services set forth in this Agreement which is attached hereto as **Exhibit "A"** and incorporated herein for all purposes. Based on this estimate, FISD shall pay the City in 12 equal monthly payments on the first day of each month of the term of this Agreement, beginning on September 1, 2018 and ending on August 1, 2019. Payment shall be made to the City of Friendswood and sent to the following address and a copy sent to the office

of the City's Chief of Police: City of Friendswood, 910 S. Friendswood Drive, Friendswood, Texas, 77546-4856, Attention: City Manager.

Upon completion of the term of this Agreement, the actual full costs (including approved overtime) incurred during the year relating to the services rendered herein shall be calculated and a determination made of the variance between the amount paid during the year by FISD and the actual full cost incurred and owed by FISD. Any amount paid during the year by FISD in excess of those costs actually incurred shall be refunded to FISD by the City within 30 days of a written request submitted by the FISD. Any amount owed by the FISD as a result of such variance shall be remitted to the City within 30 days of a written request submitted by the City. Request for a refund by FISD or a remittance by the City must be submitted to the other party within 30 days of the conclusion of this Agreement. Should the Agreement be terminated prior to expiration, said credit or debit shall be promptly paid by the responsible party to the other.

The current salary schedule will be at each officer's current salary rate. Each officer will receive merit increases on the anniversary date of hire by the Department. The City will document the FISD billing to reflect this salary adjustment.

The City of Friendswood will bear the expense of one full-time Friendswood police officer assigned to school security duties, in compliance with previous grant conditions as stipulated by the federal government. The Friendswood Police Department will provide sufficient marked police cars so that each SRO will have transportation. This transportation will allow them to transport prisoners from the schools to the incarceration facilities located in Galveston County. The City will provide all fuel, maintenance, and insurance costs for the vehicles as well as all other equipment normally provided to marked patrol cars. The City and the Department shall remain solely responsible for the officers' use of the police cars and while not in use by the SROs, the police cars may be assigned to other officers for use during non-school hours.

5. **SUBSTITUTE OFFICER**. Friendswood Police Department will provide a replacement or substitute SRO whenever it is anticipated that an officer will be away from normal SRO duties. FISD agrees to pay the substitute officer's overtime rate.

6. **EQUIPMENT PROVIDED BY FRIENDSWOOD POLICE DEPARTMENT**. The Friendswood Police Department will provide uniforms, including bulletproof vests, for the police officers, provide law books and report forms needed for Friendswood Police Department. Provide 800 MHz radios, patrol cars, training and other miscellaneous police-related equipment and supplies.

7. **EQUIPMENT PROVIDED BY FISD**. The FISD will provide an office for the officers on each campus, office equipment including desks, chairs, phones, copier (or access to), internet access for computer use, file cabinets on each campus, maps and personnel rosters of campuses, school policy manual and school district frequency radios. FISD will also provide sufficient security containers with key code access for the storage of weapons and other police-related supplies. Offices must be set up so that an officer can conduct an interview in privacy.

8. **INDEPENDENT CONTRACTORS OF FISD**. The SROs shall remain employees of the City and the Police Department and shall be at the control and supervision of their police supervisors. The City and the Department shall be solely responsible for the compensation, assignment, training, and supervision of the SROs, and shall ensure that the officers have completed all background checks as required by the Department and FISD under Texas law. Complaints or problems with SROs shall be directed through their supervisors.

9. **POLICE TRAININGS AND FUNCTIONS**. The police officers shall be scheduled to attend and participate in mandatory training set out by law or policy, and in reasonable training programs that directly impact their ability and skills as SROs. The Friendswood Police Department will strive to assign the SROs to training dates that match those days that school is out for teacher training. It will not be possible for the SROs training day to match each day as that of the teacher in-service, but every effort possible will be made.

The Friendswood Police Department reserves the right to assign SROs to a police function in the event of an emergency or situation that calls for a call up of personnel as directed in the Friendswood Police Department policies and procedures.

10. **OFF-DUTY WORK**. The SROs may work part-time off-duty jobs at school approved functions. Officers shall have the right to refuse to perform any off-duty work. The FISD shall offer such work only as an independent assignment, separate from the officers'

duties as an SRO. FISD may offer the SROs the right of first refusal for such work. FISD shall not state or imply that such additional work is not voluntary or that any work condition as an SRO is dependent upon the officer's agreement to perform any off-duty job.

11. **LUNCH PERIODS**. The officers will be entitled to a ½-hour paid lunch break. The SRO will be subject to emergency calls during lunch.

12. **OFFICERS' DUTIES.** The SRO's primary responsibility is to enforce the law. This may include responding to calls for assistance, preventative patrol, making arrests and conducting follow-up investigations on campus. The SROs should be contacted for all on-campus responses; however, in the event of an emergency that requires additional officers in the absence of the SRO, the 9-1-1 reporting system should be utilized. SROs should maintain close liaison with campus personnel and be familiar with potential problems. SROs have discretion in enforcement action when a law is violated and have the final decision. They may, however, take the school's wishes into consideration, as the officer deems appropriate.

The ultimate goal of the SRO Program is to maintain a peaceful environment that allows the learning process to continue uninterrupted.

The SRO shall not act as a school disciplinarian, as disciplining students is a school responsibility. It is agreed and understood that the principal and appropriate school staff shall be responsible for investigating and determining, in their discretion, whether a student has violated school disciplinary codes or standards and the appropriate administrative action to take. However, this shall not be construed to prevent the SRO from sharing information with school administration/staff, which may aid in the determination of whether a disciplinary offense occurred. Upon assignment, the SRO will be provided with copies of school disciplinary policies and codes and the discipline codes of each school.

Officers shall have final authority in all criminal matters they become involved in as directed by City Police Department policies and procedures, as well as federal, state and local laws.

Nothing in this Agreement shall be construed to prevent an officer from carrying out his/her duty as a law enforcement officer even if doing so conflicts with the terms and

conditions of this Agreement. Nothing in this Agreement shall override any policy or procedure of the Friendswood Police Department.

13. **ASSIGNMENT AS SCHOOL RESOURCE OFFICER**. The Department and FISD will jointly select the officers for possible SRO assignment. The department will provide the training required for the new SRO; except, FISD will ensure an assigned SRO is familiarized with FISD, campus and Education Code provisions affecting his or her assignment. The Department will have the authority to discipline or discharge a SRO. The Department is responsible for annual performance evaluations of each SRO. The school principal may provide input to the process. An SRO must comply with the personnel policies of FISD, the City, and the mission vision, values and policies of the Department.

14. **EDUCATIONAL RECORDS**. The Department understands that FISD is required to comply with certain Federal, State and local laws and/or administrative regulations governing the confidentiality of information contained in student educational records. The Department further understands that FISD follows certain rules, procedures and/or protocols to protect the confidentiality of student educational records. The Department agrees that the SROs will abide by FISD rules, procedures and/or protocols in order to protect the confidentiality of student educational records, and further agrees that SROs will not release educational records to parties without a legitimate educational interest unless authorized by law.

15. **MISCELLANEOUS.** The SRO Program at each campus is designed to be unique, based on the working relationship established between the principal of the school and the assigned SRO. The needs at each campus are different. The principal and the SRO will develop a common vision that enables the tailoring of a program to meet student needs given the range of ages at the junior high and high school. Working as a team, the principal, other key campus staff and the SRO, will make FISD's ten elements of Character Education a lively, active force in the day-to-day life on each campus.

16. **NOTICES.** All notices, communications, reports required or permitted under this Agreement shall be personally delivered to the respective parties, by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is subsequently notified otherwise in writing.

If intended for City, to: City of Friendswood, 910 S. Friendswood Drive, Friendswood, Texas, 77546-4856, Attention: City Manager, with a copy to the Chief of Police at Friendswood Police Department, 1600 Whitaker Drive, Friendswood, Texas, 77546, Attention: Chief of Police.

If intended for FISD, to: Friendswood Independent School District, 402 Laurel Drive, Friendswood, Texas, 77546, Attention: Superintendent of Schools.

17. **VENUE.** The obligations of the parties hereto shall be performed in Galveston County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Galveston County, Texas.

18. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws and courts of the State of Texas.

19. **LEGAL CONSTRUCTION.** In case any one or more of the provisions contained in this 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 in this Agreement.

20. **ENTIRE AGREEMENT.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous agreements between the parties and relating to matters in this Agreement, and cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

This agreement is authorized by the governing body of each of the parties to the agreement.

To indicate your acceptance of this agreement, please sign, date and return the enclosed copy of this agreement. Once accepted, this agreement will represent the complete agreement between the FISD and the City Police Department for the SRO Program.

This agreement is entered under authority of and in accord with the provision of Chapter 791, Texas Government Code, V.T.C.A.

_____ DATE: _____

Morad Kabiri, City Manager

_____ DATE: _____

Thad Roher, Superintendent of Schools

_____ DATE: _____

Robert B. Wieners, Chief of Police

Exhibit "A"

SRO New Agreement Costs 2018-2019

SRO #1	$ 112,428.50	*full-time with benefits & add pays*
SRO #2	$ 112,525.16	*full-time with benefits & add pays*
SRO #3	$ 111,400.31	*full-time with benefits & add pays*
SRO #4	$ 111,499.99	*full-time with benefits & add pays*
Fleet Addition	$ 50,269.00	*Fleet Addition maintenance and fuel costs not factored*
New PO equipment costs	$ 13,009.00	

Existing fleet maintance and equipment costs not factored

Total Cost of 4 officers	$ 511,131.97	*not including fleet maintenance & fuel costs*
FISD est. for three officers	$ 336,353.98	
City costs	$ 174,777.99	*plus fleet maintenance and fuel costs*

In subsequent years, the City absorbs ongoing costs of training, uniforms & supplies for all four SROs

Est. Monthly Payment by FISD **$ 28,029.50** *payable on the 1st day of the month beginning September 1, 2018*

Salary and Benefits Worksheet

	Position Title	**School Resource Officer - Ives**	
	Department / Division	Police/Patrol	
	NEW Position # / Auth #		
	# of Hours per week	**40**	**FTE:** 1.00
GL Acct #	City Benefits	City Costs	Verified Rates as of 10/1/2017
	Full-Time Wages	$68,134.56	
47-10	SS City (6.2%)	$4,603.78	
47-10	Medicare City (1.45%)	$1,076.69	
47-20	TMRS City	$11,843.60	TMRS Rate (Oct-Dec) 15.95% TMRS Rate (Jan-Sept) 15.95%
48-10	Health Insurance-Family $ 1,535.85	$18,430.15	Family Coverage at Primary plan rate
48-10	Dental Insurance-Family $ 79.52	$954.20	Family Coverage at PPO plan rate
48-20	Life INS	$171.70	
48-20	AD&D	$16.35	
48-30	LTD	$197.59	
48-40	Workers' Comp	$712.96	WC Rate = 4.36%
48-50	EAP ($6.03 Mo)	$72.36	
48-90	Flex Administration ($6.08 Mo)	$72.96	
48-90	Cobra Adm Fee ($1.80 Mo)	$21.60	
	Add Pays		
41-44	Vehicle Allowance		
41-45	Certification Pay	$5,700.00	
41-49	Cell Phone Allowance	$420.00	
41-50	Clothing Allowance		
	Subtotal Add Pays	*$6,120.00*	
	CITY ANNUAL TOTAL	**$112,428.50**	

Summary of Costs:		
Salary/Wages	$68,134.56	
Taxes	$5,680.47	
Benefits	$32,493.47	56%
Add Pays	$6,120.00	
	$112,428.50	
	-	

Salary and Benefits Worksheet

	Position Title	**School Resource Officer - Lewis**	
	Department / Division	Police/Patrol	
	NEW Position # / Auth #		
	# of Hours per week	**40**	**FTE:** 1.00
GL Acct #	City Benefits	City Costs	Verified Rates as of 10/1/2017
	Full-Time Wages	$70,580.85	
47-10	SS City (6.2%)	$4,606.65	
47-10	Medicare City (1.45%)	$1,077.36	
47-20	TMRS City	$11,850.99	TMRS Rate (Oct-Dec) 15.95% TMRS Rate (Jan-Sept) 15.95%
48-10	Health Insurance-Family $ 1,535.85	$18,430.15	Family Coverage at Primary plan rate
48-10	Dental Insurance-Family $ 79.52	$954.20	Family Coverage at PPO plan rate
48-20	Life INS	$177.86	
48-20	AD&D	$16.94	
48-30	LTD	$204.68	
48-40	Workers' Comp	$738.56	WC Rate = 4.36%
48-50	EAP ($6.03 Mo)	$72.36	
48-90	Flex Administration ($6.08 Mo)	$72.96	
48-90	Cobra Adm Fee ($1.80 Mo)	$21.60	
	Add Pays		
41-44	Vehicle Allowance		
41-45	Certification Pay	$3,300.00	
41-49	Cell Phone Allowance	$420.00	
41-50	Clothing Allowance		
	Subtotal Add Pays	*$3,720.00*	
	CITY ANNUAL TOTAL	**$112,525.16**	

Summary of Costs:		
Salary/Wages	$70,580.85	
Taxes	$5,684.02	
Benefits	$32,540.30	54%
Add Pays	$3,720.00	
	$112,525.16	
	-	

Salary and Benefits Worksheet

	Position Title	**School Resource Officer - Waggoner**	
	Department / Division	Police/Patrol	
	NEW Position # / Auth #		
	# of Hours per week	**40**	**FTE:** 1.00
GL Acct #	City Benefits	City Costs	Verified Rates as of 10/1/2017
	Full-Time Wages	$69,682.50	
47-10	SS City (6.2%)	$4,550.96	
47-10	Medicare City (1.45%)	$1,064.34	
47-20	TMRS City	$11,707.70	TMRS Rate (Oct-Dec) 15.95% TMRS Rate (Jan-Sept) 15.95%
48-10	Health Insurance-Family $ 1,535.85	$18,430.15	Family Coverage at Primary plan rate
48-10	Dental Insurance-Family $ 79.52	$954.20	Family Coverage at PPO plan rate
48-20	Life INS	$175.60	
48-20	AD&D	$16.72	
48-30	LTD	$202.08	
48-40	Workers' Comp	$729.16	WC Rate = 4.36%
48-50	EAP ($6.03 Mo)	$72.36	
48-90	Flex Administration ($6.08 Mo)	$72.96	
48-90	Cobra Adm Fee ($1.80 Mo)	$21.60	
	Add Pays		
41-44	Vehicle Allowance		
41-45	Certification Pay	$3,300.00	
41-49	Cell Phone Allowance	$420.00	
41-50	Clothing Allowance		
	Subtotal Add Pays	*$3,720.00*	
	CITY ANNUAL TOTAL	**$111,400.31**	

Summary of Costs:		
Salary/Wages	$69,682.50	
Taxes	$5,615.29	
Benefits	$32,382.52	55%
Add Pays	$3,720.00	
	$111,400.31	
	-	

6/20/2018

Salary and Benefits Worksheet

	Position Title	**School Resource Officer - SRO #4**	
	Department / Division	Police/Patrol	
	NEW Position # / Auth #		
	# of Hours per week	**40**	**FTE:** 1.00
GL Acct #	City Benefits	City Costs	Verified Rates as of 10/1/2017
	Full-Time Wages	$69,465.97	
47-10	SS City (6.2%)	$4,556.13	
47-10	Medicare City (1.45%)	$1,065.55	
47-20	TMRS City	$11,721.01	TMRS Rate (Oct-Dec) 15.95% TMRS Rate (Jan-Sept) 15.95%
48-10	Health Insurance-Family $ 1,535.85	$18,430.15	Family Coverage at Primary plan rate
48-10	Dental Insurance-Family $ 79.52	$954.20	Family Coverage at PPO plan rate
48-20	Life INS	$175.05	
48-20	AD&D	$16.67	
48-30	LTD	$201.45	
48-40	Workers' Comp	$726.89	WC Rate = 4.36%
48-50	EAP ($6.03 Mo)	$72.36	
48-90	Flex Administration ($6.08 Mo)	$72.96	
48-90	Cobra Adm Fee ($1.80 Mo)	$21.60	
	Add Pays		
41-44	Vehicle Allowance		
41-45	Certification Pay	$3,600.00	
41-49	Cell Phone Allowance	$420.00	
41-50	Clothing Allowance		
	Subtotal Add Pays	*$4,020.00*	
	CITY ANNUAL TOTAL	**$111,499.99**	

Summary of Costs:		
Salary/Wages	$69,465.97	
Taxes	$5,621.68	
Benefits	$32,392.35	55%
Add Pays	$4,020.00	
	$111,499.99	
	-	

6/20/2018

Addition to the Fleet - P410

		2018 upcharge would be
Helfman Ford	$24,269	$28,500
Special price on a last remaining 2017 model Ford Explorer Police Interceptor		
Dana Safety	$13,000	
Police emergency equipment and lights		
MPH Radar	$1,200	
L-3 Mobile Vision	$5,000	
CDW Computers (MDT)	$5,500	
Souther Computers (Citation Writer)	$900	
Mobile Graphics	$400	
Motorola Radio	$0	
PD had a mobile radio in reserve, no purchase necessary for this fleet addition		
	$50,269	

New Officer Equipment List

OC holder	$ 30.00		52		52-00	Personnel Supplies		
ASP	$ 85.00		52		54-00	Operating Supplies		
ASP holder	$ 40.00		52		58-00	Operating Equipment		
Stinger cone	$ 10.00		52					
stinger holder	$ 20.00		52					
SL20 cone	$ 10.00		52					
radio clip	$ 20.00		52					
clipboard	$ 20.00		52					
traffic vest	$ 55.00		52					
rain coat	$ 50.00		52					
hat and rain cover	$ 45.00		52					
hat badge	$ 82.00		52					
baseball cap	$ 10.00		52					
badge	$ 85.00		52					
name tag	$ 12.00		52					
FPD insignia	$ 10.00		52					
body armor	$ 795.00		52					
range supplies	$ 500.00		52	ongoing				
tie and tie bar	$ 25.00		52					
pants	$ 200.00	3	52	ongoing				
shirts	$ 150.00	3	52	ongoing				
long sleeve shirts	$ 150.00	3	52	ongoing				
vest carrier	$ 150.00							
jacket	$ 175.00		52					
storm pants	$ 120.00	2	52					
storm shirt	$ 100.00	2	52					
L-3 body mic/holder	$ 15.00		52					
key peg	$ 10.00		52					
jail key	$ 10.00		52			one-time		ongoing
						$	2,984.00	$ 1,000.00
OC spray	$ 25.00		54	ongoing				
Evidence supplies	$ 50.00		54	ongoing				$ 75.00

Stinger LED/charger	$ 110.00	58					
SL20X LED/charger	$ 110.00	58					
Body Cam	$ 350.00	58					
radio/mic/charger	$ 5,500.00	58					
taser and two cartridges	$ 1,800.00	58					
				$ 7,870.00			
medical testing	$ 200.00	72-12		$ 200.00			
law enforcement insurance	$ 350.00	73-22	ongoing				
training	$ 250.00	75-10	ongoing				
travel reimbursement	$ 100.00	75-20	ongoing				
radio service	$ 180.00	76-12	ongoing				
						$ 880.00	
				$ 11,054.00		$ 1,955.00	**$ 13,009.00**

City of Friendswood

Friendswood Police Department recommendations for school safety enhancements:

1. School Guardian Program – immediately increasing law enforcement presence at school through the hiring of retired peace officers and military veterans for school security.
2. School Marshal Program – funding the training this summer and requiring annual refresher courses to maintain school marshal skills.
3. Provide active shooter and emergency response training.
4. Participate in any Federal or State funding opportunities for immediate school safety improvements.
5. Provide mental health evaluations that identify students at risk of harming others and provide them the help they need.
6. Increase mental health first aid training during summer 2018.
7. Provide schools with behavioral threat assessment programs.
8. Better utilize and expand on-campus counseling resources (need to be more than schedulers).
9. Reinstate the Campus Crime Stoppers program.
10. Increase the use and awareness of DPS "iWatch Texas" reporting system to enable and encourage parents, students and teachers to easily report potential harm or criminal activity directed at school students, school employees, and schools.
11. Protect school employees by implementing a zero-tolerance policy for students who commit assault and threaten teachers.
12. Encourage the Texas Senate and House leaders to issue an interim charge to consider the merits of adopting a red flag law allowing law enforcement, a family member, school employee, or a district attorney to file a petition seeking the removal of firearms from a potentially dangerous person only after legal due process is provided.
13. Promote awareness of safe storage practices and promote voluntary use of gun locks.

The Friendswood Police Department concurs with Governor Abbott's strategies released on May 30, 2018 in a document titled, *School and Firearm Safety Action Plan*.

Police Department • 1600 Whitaker Drive • Friendswood, Texas 77546-4177 • Fax (281) 482-9318
Office of the Chief • Administration and Records • Public Safety Communications Center
(281) 996-3313 (281) 996-3318 (281) 996-3300

FISD SCHOOL SAFETY LAYERS

ERICH R. KREITER

EXECUTIVE DIRECTOR OF SAFETY AND OPERATIONS

Current Sub Layers in Place

- **Emergency Management**
  - Policy & Regulations
  - EOP
  - Law Enforcement
  - SROs
  - Safety Audits
  - Background Checks
  - Anonymous Reporting
- **Exercises**
  - Drills
  - Table-Tops
- **Communication**
- **Staff Training**
  - Emergency Procedures
  - NIMS
  - Professional Development
- **Hardware/Software**
  - Access Control
  - IDS (Intrusion Detection System)
  - Raptor
  - Security Cameras
  - Fencing
  - Signage
- **Positive School Culture**
  - Administration and Staff
  - Counselors
  - Character Education Programs
  - Community
  - Dress Code
  - Student Code of Conduct

Improvements and Enhancements to Current Sub Layers in Place

Emergency Management

- Policy & Regulation Changes
- EOP Updates
- Law Enforcement +
- SROs +
- Safety Audits Cycle
- Background Checks Enhanced
- Anonymous Reporting Options

Exercises

- Drills +
- Table-Tops +

Communication

Staff Training

- Emergency Procedures (All)
- NIMS
- Professional Development

Hardware/Software

- Access Control Upgrades
- IDS Upgrades
- Raptor +
- Security Camera Upgrades
- Fencing Upgrades
- Signage Additions

Positive School Culture

- Administration and Staff (Culture)
- Counselors + & Types
- Character Education Programs +
- Community (Culture)
- Dress Code Changes
- Student Code of Conduct Additions

Optional Layers to Explore

- School Marshal Program
- FISD Peace Officers
- Security Personnel
- Private Security Company
- Guardian Plan
- Watchdog Program
- Armed Volunteers
- Metal Detectors
- Social Media Monitoring
- Physical Security Enhancements
- IDs
- Other

Goal: Careful Consideration and Sound Decision making to implement Measurable and Effective Layers that are Sustainable!

Emergency Management	EOP	Safety Audits	Policy & Regulations	$$ LE/Security $$
Exercises	Drills	Table-Tops		
Staff Training	Emergency Procedures			
Hardware/Software	$ Access Control $	$ Signage	$ Fencing	
Positive School Culture	Character Education Programs	Administration and Staff	Dress Code	Student Code of Conduct
Optional Layers	Committee recommended, Board approved, most impact budget.			

Achievable Layers

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 26, 2018 Dept. Clearances: Morad Kabiri

Prepared by: L Price/G Faulkner Originating Department: City Manager's Office

Subject: Appointment of Judge and Alternate Judge for Municipal Court

Proceeding: Discussion and Possible Action City Attorney Review:

Degree of importance: Critical ☒ Significant ☐ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: N/A

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

As stipulated in Section 4.02 of the City's Charter, Council is required to appoint a Judge and Alternate Judge to preside over Municipal Court. Said appointments are for two year terms.

Judge James Woltz and Richard Flake were last appointed in June of 2016 and have served in this capacity for a number of years. Associate Municipal Court Judge Richard Flake will no longer seek reappointment to his Associate Judge role in the Friendswood Municipal Court. Applications were received from potential candidates and Robert Barfield's resume and history of service to the citizens of Friendswood makes him the most viable candidate for this important appointment.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The role of Judge is a critical component of the Municipal Court system. Failure to make this appointment in a timely fashion would interrupt Municipal Court operations.

RECOMMENDATIONS

Staff recommends that Judge Woltz be reappointed to serve a two year term ending July of 2018.

Request the appointment of Robert Barfield as an Associate Municipal Court Judge for the Friendswood Municipal Court to serve a two-year term ending in July 2018. Mr. Barfield is a Friendswood resident and has served as a Presiding Judge and Associate Municipal Judge for nearby municipalities. He is a practicing attorney with prosecutorial and judicial experience.

ATTACHMENTS

Robert Barfield resume

ROBERT J. BARFIELD

3 DOMINION CT., FRIENDSWOOD TX 77546

281-474-1405 PHONE / 832-282-5658 CELL

robert@barfieldlawfirm.com

EDUCATION

UNIVERSITY OF HOUSTON LAW CENTER Houston, TX

J.D., December 1993. Transferred Fall 1992 from St. Mary's Law School. American Jurisprudence Award - Trust & Wills.

HARVARD UNIVERSITY Cambridge, MA

A.B. American History June 1991. Dean's List. Charter Member Kappa Eta Chapter of Sigma Chi Fraternity.

JUDICIAL EXPERIENCE

EL LAGO MUNICIPAL COURT 2001 to present 98 Lakeshore Drive, El Lago, TX 77586 (281-326-4413 x10)

***Presiding Judge*:** Preside over Class C criminal cases. Perform magistrate duties. Set and implement court policies and procedures. Sign blood warrants in Harris County for no-refusal weekend program when requested.

PASADENA MUNICIPAL COURT 1997 to 2006 1001 Shaw Ave., Suite A, Pasadena, TX 77506 (713-475-5562)

***Former Associate Municipal Judge*:** Presided over Class C criminal cases at arraignment, pre-trial, judge trial and jury trial settings. Held Department of Public Safety administrative license revocation hearings. Performed magistrate duties and property hearings. Presided over jail dockets and reviewed and signed search warrants for the police department.

BAYTOWN MUNICIPAL COURT 2001 to 2003 3120 N. Main St. Baytown, TX 77521 (281-427-9511)

***Former Associate Municipal Judge*:** Presided over Class C criminal cases at arraignment, pre-trial, judge & jury trial settings. Performed magistrate duties and conducted jail dockets.

PROSECUTORIAL EXPERIENCE

LA MARQUE MUNICIPAL COURT 2010 to present 1111 Bayou Road, La Marque, TX 77568 (409) 938-9245

Prosecutor: Handle all class c cases including traffic, penal code and code enforcement cases. Regular meetings with police department to set up procedures for municipal court cases. Drafting of complaints and other court forms necessary for court operations.

TEXAS CITY MUNICIPAL COURT 2000 to present 1004 9th Avenue N. Texas City, TX 77590 (409-643-5800)

Prosecutor: Handle all class c cases including traffic, penal code and code enforcement cases. Implemented procedures that saved both court resources and time. These new procedures allowed for the court to reduce the weekly dockets from 20+ per month to 11-13 per month.

GALVESTON MUNICIPAL COURT 2008 to 2012 601 54th Street Suite 300, Galveston, TX 77551 (409-765-3740)

Prosecutor: Handled all class c cases including traffic, penal code and code enforcement cases. Implemented procedures that saved both court resources and time. These new procedures allowed for the court to reduce the weekly dockets requiring a prosecutor from 5 per week to 3 per week.

LEGAL EXPERIENCE - ADMITTED TO THE TEXAS BAR - MAY 6, 1994

LAW OFFICE OF ROBERT J. BARFIELD 1996 to present 609 Bradford Ave., Ste. 207, Kemah, TX 77565 (713-941-1329)

Attorney: Handle criminal cases and limited civil cases in Galveston and Harris Counties. Consultant for other lawyers and firms on computer technology and the law practice which includes recommending hardware and software solutions and coordinating the acquisition and setup of the hardware & software. 90% plus of practice concentrates on criminal cases.

LAW OFFICE OF JOHN NICHOLS 1993 to 1995 Houston, TX (713-654-0708)

Attorney: Primarily handled family laws, personal injury & employment law cases. Responsible for preparing cases for trial including propounding & answering interrogatories, requests for production & requests for admissions.

PROFESSIONAL ASSOCIATION AND AFFILIATIONS

TEXAS MUNICIPAL COURT EDUCATION CENTER 1609 Shoal Creek Blvd. Ste. 302, Austin TX 78701 (512-320-8274)

Former Board Member, Current Speaker and Member: The TMCEC provides training for judges, clerks and prosecutors of municipal courts. Attended quarterly meeting to set policies, procedures and educational curriculum for judges, court clerks and prosecutors. Speaker at TMCEC seminars for judges, clerks and prosecutors on a wide variety of topics including contempt, technology issues, jail credit, indigency, and evidence.

CURRENT AND FORMER SPEAKER FOR THE FOLLOWING ORGANIZATIONS

Texas Municipal Court Education Center, Texas Association of Counties (Courts & Local Government Technology Conference), Texas Court Clerks Association, Code Enforcement Association of Texas, Texas Southern School of Law, Pearland ISD Career Day, Dickinson ISD Career Day, Harvard University (College Night at various local school districts).

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 26, 2018 Dept. Clearances: Morad Kabiri

Prepared by: Morad Kabiri

Subject: Council Concurrence of Assistant City Manager Appointment

Originating Department: CMO City Attorney Review: N/A

Proceeding: Discussion & Action

Degree of importance: Critical ☐ Significant: ☒ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL:

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

As Council is aware, upon Roger's retirement this past April and my appointment to City Manager, a vacancy was left in the role of Assistant City Manager (ACM). Recently, the City conducted a search for a suitable replacement and received over 140 applications for the role. A pared down pool of candidates were then interviewed by a panel that included:

- Roger Roecker (former City Manager);
- Bob Wieners (Police Chief);
- Glenda Faulkner (Executive Secretary to the City Manager); and
- Myself

The group is pleased to report, that a candidate has been selected to assume the role of Assistant City Manager. The individual being recommended for appointment is Steven Rhea. Mr. Rhea has more than a decade of municipal experience with the cities of Baytown, Corpus Christi, and Victoria. Prior to working in municipal government, Steven worked with a private engineering firm for close to nine years and holds a Bachelor's Degree from Texas A&M University, Corpus Christi.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Having professional staff in place is critical in ensuring the continued provision of high level City service our citizens enjoy. The Assistant City Manager is responsible for overseeing the Community Development, Parks & Recreation, and Public Works departments.

RECOMMENDATIONS

Section 4.01(d) (2) of the City Charter requires the City Manager to receive the concurrence of City Council with the appointment, suspension or removal of Department Directors. Since the role of Assistant City Manager will be responsible for multiple Department Directors, I am asking for Council's concurrence to appoint Steven Rhea to the position of ACM.

ATTACHMENTS

None

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 25, 2018 Dept. Clearances: MK

Prepared by: MKF Originating Department: City Manager, at the Request of Council Members Branson and Griffon

Subject: Support the Dredging of Clear Creek

Proceeding: Consent City Attorney Review: Yes

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: Amount Budgeted:

Appropriation Required: Source of Funds:

FINANCE APPROVAL: N/A

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

Clear Creek is a slow-moving coastal stream that runs through the City of Friendswood and drains into Clear Lake. Clear Creek affects the City of Friendswood by subjecting the City to flooding and other natural hazards with potential to cause harm or damage to people and property within the City.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The City Council of the City of Friendswood desires to prepare and mitigate against such potential harm or damage by requesting the Army Corp of Engineers dredge Clear Creek.

RECOMMENDATIONS

Recommend approval of this Resolution.

ATTACHMENTS

Resolution

RESOLUTION NO. R2018-11

A RESOLUTION OF THE CITY OF FRIENDSWOOD, TEXAS, IN SUPPORT OF THE DREDGING OF CLEAR CREEK.

WHEREAS, bayou and creeks are a defining natural resource and a living source of recreation, beauty and tranquility which we need to protect and restore; and

WHEREAS, through stewardship, leadership, education and outreach, we help to safeguard the richness and diversity of the Gulf Coast bayou systems and creeks;

WHEREAS, Clear Creek is a slow-moving coastal stream that runs through the City of Friendswood and drains into Clear Lake; and

WHEREAS, Clear Creek is snagged and silted and requires dredging to improve water flow; and

WHEREAS, Clear Creek affects the City of Friendswood ("City") by subjecting the City to flooding and other natural hazards with the potential to cause harm or damage to people and property within the City; and

WHEREAS, the City Council of the City of Friendswood desires to prepare for and mitigate against such potential harm or damage by requesting that the Army Corp of Engineers dredge Clear Creek;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, TEXAS:

Section 1. That the above-listed recitals are true and correct and hereby incorporated into this Resolution.

Section 2. That the City requests support and strongly urges its legislative delegation to request that the Army Corp of Engineers dredge Clear Creek to allow for maximum flow with tidal movements and thus contribute to improved flood management and improved water quality.

Section 3. That all resolutions and agreements and parts of resolutions and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. It is hereby found and determined that the meeting at which this resolution was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law.

PASSED, APPROVED AND ADOPTED this the 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2018

Date Submitted: 6/28/2018 Dept. Clearances: RBW

Prepared by: Lisa Price

Subject: VOCA Resolution

Originating Department: Police Department City Attorney Review: mkf

Proceeding: Resolution

Degree of importance: Critical ☐ Significant ☐ Elective ☒

Expenditure Required:	Amount Budgeted:
Appropriation Required:	Source of Funds:
FINANCE APPROVAL: *krh*	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

With a new change in Mayor, the Governor's Office requires a new resolution signed by the new administration for the VOCA grant. This resolution covers the grant period in progress and will be good for the grant that we applied for and are awaiting notice of award.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

A new resolution is required to authorize the requested change in Authorized Official.

RECOMMENDATIONS

Mayor and council approval of a new resolution for the application and acceptance of grant funds for the Crime Victim Assistance Program at the Police Department

ATTACHMENTS

VOCA Resolution update

RESOLUTION NO. R2018-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, TEXAS, DESIGNATING THE MAYOR AS THE CITY'S REPRESENTATIVE IN SEEKING ELIGIBLE GRANT FUNDS UNDER GENERAL VICTIM ASSISTANCE DIRECT SERVICES PROGRAM; AND AUTHORIZING THE SUBMISSION OF SUCH GRANT APPLICATION TO THE CRIMINAL JUSTICE DIVISION OF THE OFFICE OF GOVERNOR.

* * * * * * * * * *

WHEREAS, the City Council of the City of Friendswood, Texas hereby finds and determines that continuation of the Friendswood Police Department Crime Victim Assistance Program is in the best interests of the citizens of Friendswood; and

WHEREAS, the City agrees to provide applicable matching funds for the said program as required by the General Victim Assistance Direct Services Program grant application; and

WHEREAS, the City agrees that in the event of loss or misuse of any Criminal Justice Division grant funds, the City assures that the funds will be returned to the Criminal Justice Division in full; and

WHEREAS, the City Council hereby further finds and determines that the person serving as Mayor of the City is the appropriate individual to act as the City's authorized official, and as such should be given the power to apply for, accept, reject, alter or terminate the grant on behalf of the City,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The City Council of the City of Friendswood, Texas, hereby authorizes and approves the submission of a grant application, pursuant to the General Victim Assistance Direct Services Program, to the Office of the Governor, Criminal Justice Division.

Section 3. The City Council hereby designates and appoints the Mayor of said City as the authorized official to apply for, accept, reject, alter, or terminate the grant on behalf of the City.

PASSED, APPROVED AND RESOLVED on this 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

Grant Number: 1406217 & 1406218

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 07.02.18

Date Submitted: 05.25.18 Dept. Clearances: K Hampton

Prepared by: Katina Hampton

Subject: Authorized Representatives for TexPool investment account

Originating Department: Admin Service City Attorney Review: Yes

Proceeding: Discussion & Possible Action

Degree of importance: Critical ☒ Significant ☐ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

With the retirement of Roger Roecker, City Manager, effective April 13, 2018, it is necessary to update the authorized representative for the City of Friendswood's TexPool investment account.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The City's current authorized representatives are listed as Roger Roecker, City Manager, and Katina Hampton, Director of Administrative Services.

RECOMMENDATIONS

Staff recommends removing Roger Roecker, former City Manager, and adding Morad Kabiri, current City Manager, as an authorized representative of the City's TexPool investment account.

ATTACHMENTS

Resolution - R2018-13 TexPool Authorized Representatives Amendment
Exhibit A - TexPool Authorized Representatives Form

RESOLUTION NO. R2018-13

A RESOLUTION OF THE CITY OF FRIENDSWOOD, TEXAS, APPROVING AN AMENDMENT TO THE RESOLUTION DESIGNATING INDIVIDUALS OF THE CITY AS AUTHORIZED REPRESENTATIVES TO THE TEXAS LOCAL GOVERNMENT INVESTMENT POOL ("TEXPOOL / TEXPOOL PRIME"); AND REPEALING ALL OTHER RESOLUTIONS INCONSISTENT OR IN CONFLICT HEREWITH.

* * * * *

WHEREAS, on May 20, 1991 the City Council of the City of Friendswood, Texas (the "City") passed and approved Resolution No. R91-28 whereby the City was authorized to establish an account for the purpose of transmitting local funds for investment in a public funds investment pool known as "TexPool;" and

WHEREAS, by such Resolution certain officers of the City were thereby authorized to transmit funds to the pool and to withdraw funds from the pool and take such other actions deemed necessary and appropriate for the investment of local funds; and

WHEREAS, it has become necessary submit to the pool a revised Resolution Amending Authorized Representatives to act on the City's behalf in connection with the investment of the City's public funds;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, TEXAS:

Section 1. That the individuals whose names and signatures appear in the Resolution Amending Authorized Representatives attached hereto as Exhibit "A" are each hereby authorized to transmit City public funds for investment in TexPool / TexPool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

Section 2. That the Mayor and City Secretary are hereby authorized to execute and attest, respectively, that certain Resolution Amending Authorized Representatives attached hereto as Exhibit "A" by and between the City and the Texas Local Government Investment Pool ("TexPool / TexPool Prime").

Section 3. That all resolutions or parts of resolutions inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

PASSED, APPROVED, AND ADOPTED this the 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

Clear Form | Print Form

Resolution Amending Authorized Representatives

Please use this form to amend or designate Authorized Representatives.

This document supersedes all prior Authorized Representative forms.

*** Required Fields**

1. Resolution

WHEREAS,

CITY OF FRIENDSWOOD
Participant Name*

Location Number*

("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool ("TexPool/ Texpool Prime"), a public funds investment pool, were created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

A. That the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexPool / TexPool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

B. That an Authorized Representative of the Participant may be deleted by a written instrument signed by two remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexPool / TexPool Prime account or (2) is no longer employed by the Participant; and

C. That the Participant may by Amending Resolution signed by the Participant add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant;

List the Authorized Representative(s) of the Participant. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

1. Morad Kabiri
Name

City Manager
Title

281-996-3250/281-482-3722/mkabiri@friendswood.com
Phone/Fax/Email

Signature

2. Katina Hampton
Name

Director of Administrative Services
Title

281-996-3221/281-482-6491/khampton@friendswood.com
Phone/Fax/Email

Signature

FORM CONTINUES ON NEXT PAGE

1. Resolution (continued)

3.

Name

Title

Phone/Fax/Email

Signature

4.

Name

Title

Phone/Fax/Email

Signature

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Katina Hampton

Name

In addition and at the option of the Participant, one additional Authorized Representative can be designated to perform only inquiry of selected information. This limited representative cannot perform transactions. If the Participant desires to designate a representative with inquiry rights only, complete the following information.

Rhonda Bloskas

Name

Deputy Director of Administrative Services/Deputy Investment Officer

Title

281-996-3216/281-482-6491/rbloskas@friendswood.com

Phone/Fax/Email

D. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool Participant Services receives a copy of any such amendment or revocation. This Resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the 2nd day July, 20 18.

Note: Document is to be signed by your Board President, Mayor or County Judge and attested by your Board Secretary, City Secretary or County Clerk.

CITY OF FRIENDSWOOD

Name of Participant*

SIGNED	**ATTEST**
Signature*	Signature*
Printed Name*	Printed Name*
Title*	Title*

2. Mailing Instructions

The completed Resolution Amending Authorized Representatives can be faxed to TexPool Participant Services at 1-866-839-3291, and mailed to:

TexPool Participant Services
1001 Texas Avenue, Suite 1400
Houston, TX 77002

ORIGINAL SIGNATURE AND DOCUMENT REQUIRED **TEX-REP**

TexPool Participant Services
1001 Texas Avenue, Suite 1400 • Houston, TX 77002
Phone: 1-866-TEXPOOL (839-7665) • Fax: 1-866-839-3291 • www.texpool.com

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FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 07/02/18

Date Submitted: 05/02/18 Dept. Clearances: City Secretary Melinda Welsh

Prepared by: Deputy City Secretary Michelle Perez

Subject: Adopt the recodification of the Friendswood City Code

Originating Department: City Secretary's Office City Attorney Review: Yes

Proceeding: Ordinances

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required:	Amount Budgeted:
Appropriation Required:	Source of Funds:
FINANCE APPROVAL:	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The City Charter requires the recodification of all general ordinances at least every ten years. General ordinances are those ordinances of a permanent or continuing nature.

The code is reviewed in its entirety by attorneys from Municode, Friendswood City Attorney and City Staff. This review is an in-depth review of all adopted ordinances for consistencies with current State Law. This review updates all state law reference and amends new references as necessary, researches every ordinance in the Code against the Charter and state law and researches provisions of the Code for inconsistencies, conflicts or obsolete provisions.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The recodified code, after adoption by Council, will be distributed to code book users, placed in the Library and will be available on the City's website. The code will be updated with printed supplements twice annually or as needed, to be inserted into the newly recodified codebook. Additionally, the code will be electronically supplemented bi-monthly on the City's website. The electronic code is searchable by word or by subject.

We trust that this Code of Ordinances will continue to make the laws of the City readily accessible to all citizens and will be a valuable tool in the day-to-day administration of City business.

RECOMMENDATIONS

Ordinance No. T2018-13 is recommended for adoption by Council.

ATTACHMENTS

Ordinance No T2018-13
Marked Recodified Code
Clean Version of Recodified Code

(Title: An ordinance adopting a new code for recodification of the Friendswood City Code)

ORDINANCE NO. T2018-13

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

* * * * * * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, STATE OF TEXAS:

Section 1. The Code entitled "Code of Ordinances, City of Friendswood, Texas," published by Municipal Code Corporation, consisting of chapters 1 through 94, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before December 4, 2017, and not included in the Code or recognized and continued in force by reference therein, are repealed.

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

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding five hundred dollars ($500.00), except for:

(1) Violations of municipal ordinances that govern fire, safety, zoning, public health and sanitation, other than the dumping of refuse, in which the

maximum fine shall be $2,000.00 for each offense;

(2) Violations of municipal ordinances that govern dumping of refuse shall have a maximum fine of $4,000.00; and

(3) Violations of traffic laws which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed two hundred dollars ($200.00).

However, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state.

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 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 December 4, 2017, 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 be published in the official publication of the municipality, as provided by Texas Local Government Code Section 53.002(a).

Section 8. This ordinance shall become effective upon adoption.

PASSED AND APPROVED on first reading this 4th day of June, 2018.

PASSED, APPROVED and ADOPTED on the second reading this 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

TABLE OF CONTENTS

PART II 6
CITY CODE 6
CHAPTER 1 GENERAL PROVISIONS 6
CHAPTER 2 ADMINISTRATION 13
ARTICLE I. IN GENERAL 13
ARTICLE II. BOARDS, COMMITTEES AND COMMISSIONS 13
DIVISION 1. GENERALLY 13
DIVISION 2. BOARD OF ADJUSTMENT 13
DIVISION 3. PLANNING AND ZONING COMMISSION 13
ARTICLE III. EMPLOYEE BENEFITS 16
DIVISION 1. GENERALLY 16
DIVISION 2. FEDERAL OLD AGE AND SURVIVORS BENEFITS 17
ARTICLE IV. RECORDS AND INFORMATION MANAGEMENT 18
ARTICLE V. FINANCE 21
CHAPTERS 3—5 RESERVED 23
CHAPTER 6 ALCOHOLIC BEVERAGES 24
ARTICLE I. IN GENERAL 24
ARTICLE II. PROHIBITION OF NUDITY IN COMMERCIAL ESTABLISHMENTS SERVING OR PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES 25
CHAPTERS 7—9 RESERVED 27
CHAPTER 10 ANIMALS 28
ARTICLE I. IN GENERAL 28
ARTICLE II. DOGS AND CATS 37
DIVISION 1. GENERALLY 37
DIVISION 2. LICENSE 38
DIVISION 3. RABIES IMMUNIZATION 39
ARTICLE III. DANGEROUS AND VICIOUS ANIMALS 40
ARTICLE IV. RABIES CONTROL 43
ARTICLE V. IMPOUNDMENT 46
ARTICLE VI. ANIMAL ESTABLISHMENTS 48
ARTICLE VII. ANIMAL SHELTER ADVISORY COMMITTEE 50
CHAPTERS 11—13 RESERVED 52
CHAPTER 14 BUILDINGS AND BUILDING REGULATIONS 53
ARTICLE I. IN GENERAL 53
ARTICLE II. BUILDING CODE 54
ARTICLE III. ELECTRICAL CODE 56
DIVISION 1. GENERALLY 56
DIVISION 2. APPEALS 59
DIVISION 3. ELECTRICAL INSPECTOR 59
DIVISION 4. PERMITS 62
DIVISION 5. INSPECTIONS 64
DIVISION 6. ELECTRICIAN'S LICENSES 65
ARTICLE IV. PLUMBING CODE 66
ARTICLE V. MECHANICAL CODE 68
ARTICLE VI. FUEL GAS CODE 68
ARTICLE VII. SUBSTANDARD BUILDINGS AND STRUCTURES 69
ARTICLE VIII. SWIMMING POOLS 79
ARTICLE IX. MISCELLANEOUS CODES 80
CHAPTERS 15—17 RESERVED 81

CHAPTER 18 BUSINESSES 82
ARTICLE I. IN GENERAL 82
ARTICLE II. PEDDLERS, SOLICITORS, CANVASSERS, ITINERANT VENDORS 82
DIVISION 1. GENERALLY 82
DIVISION 2. REGISTRATION 84
CHAPTERS 19—21 RESERVED 89
CHAPTER 22 CIVIL EMERGENCIES 90
ARTICLE I. IN GENERAL 90
ARTICLE II. EMERGENCY MANAGEMENT 90
ARTICLE III. ASSISTANCE TO COUNTIES AND OTHER CITIES 93
ARTICLE IV. PRICE CONTROL MEASURES 94
CHAPTERS 23—25 RESERVED 96
CHAPTER 26 ENVIRONMENT 97
ARTICLE I. IN GENERAL 97
ARTICLE II. AIR POLLUTION 97
DIVISION 1. GENERALLY 97
DIVISION 2. SMOKING TOBACCO 97
ARTICLE III. SANITARY NUISANCES 97
ARTICLE IV. GRASS, WEEDS, BRUSH, RUBBISH 100
DIVISION 1. GENERALLY 100
DIVISION 2. ABATEMENT 101
ARTICLE V. JUNKED VEHICLES 104
ARTICLE VI. LITTER 108
ARTICLE VII. OIL AND GAS 109
DIVISION 1. GENERALLY 109
DIVISION 2. PERMITS 115
DIVISION 3. BOND, LETTERS OF CREDIT, INSURANCE AND INDEMNITY 125
DIVISION 4. OPERATOR PLANS AND REPORTS 126
DIVISION 5. ON-SITE AND TECHNICAL REGULATIONS 132
DIVISION 6. PIPELINES AND COMPRESSOR STATIONS 139
CHAPTERS 27—29 RESERVED 143
CHAPTER 30 FIRE PROTECTION AND PREVENTION 144
ARTICLE I. IN GENERAL 144
ARTICLE II. FIRE MARSHAL 144
ARTICLE III. FIRE CODES 145
DIVISION 1. GENERALLY 145
DIVISION 2. INTERNATIONAL FIRE CODE 145
DIVISION 3. LIFE SAFETY CODE 147
ARTICLE IV. FIREWORKS 147
CHAPTERS 31—33 RESERVED 152
CHAPTER 34 FLOODS 153
ARTICLE I. IN GENERAL 153
ARTICLE II. FLOOD DAMAGE PREVENTION 153
DIVISION 1. GENERALLY 153
DIVISION 2. FLOOD HAZARD REDUCTION 161
CHAPTERS 35—37 RESERVED 166
CHAPTER 38 HEALTH AND SANITATION 167
ARTICLE I. IN GENERAL 167
ARTICLE II. FOOD AND FOOD SERVICE ESTABLISHMENTS 167
DIVISION 1. GENERALLY 167
DIVISION 2. FOOD HANDLERS 167

DIVISION 3. FOOD SERVICE ESTABLISHMENTS....169
CHAPTERS 39—41 RESERVED....173
CHAPTER 42 LAW ENFORCEMENT....174
ARTICLE I. IN GENERAL....174
ARTICLE II. POLICE RESERVE FORCE....175
CHAPTERS 43—45 RESERVED....177
CHAPTER 46 LIBRARY....178
ARTICLE I. IN GENERAL....178
ARTICLE II. FRIENDSWOOD PUBLIC LIBRARY....178
CHAPTERS 47—49 RESERVED....179
CHAPTER 50 MANUFACTURED HOMES AND TRAILERS....180
ARTICLE I. IN GENERAL....180
ARTICLE II. MOBILE HOMES AND MOBILE HOME PARKS....180
DIVISION 1. GENERALLY....180
DIVISION 2. MOBILE HOMES....183
DIVISION 3. MOBILE HOME PARKS....184
SUBDIVISION I. IN GENERAL....184
SUBDIVISION II. CONSTRUCTION PERMIT....185
SUBDIVISION III. PARKING PERMIT....186
SUBDIVISION IV. LICENSE....187
SUBDIVISION V. INSPECTION....189
SUBDIVISION VI. PLANS AND SPECIFICATIONS....190
ARTICLE III. INDUSTRIALIZED HOUSING AND COMMERCIAL BUILDINGS....194
CHAPTERS 51—53 RESERVED....197
CHAPTER 54 OFFENSES AND MISCELLANEOUS PROVISIONS....198
ARTICLE I. IN GENERAL....198
ARTICLE II. CURFEW FOR MINORS....199
ARTICLE III. PROTECTION OF CITIZENS, EMPLOYEES, MUNICIPAL PROPERTY....202
ARTICLE IV. NOISE....205
ARTICLE V. ALARM SYSTEMS....210
ARTICLE VI. SEX OFFENDERS....221
ARTICLE VII. ILLICIT SYNTHETIC DRUGS....222
CHAPTERS 55—57 RESERVED....225
CHAPTER 58 PARKS AND RECREATION....226
ARTICLE I. IN GENERAL....226
ARTICLE II. PARKS....226
DIVISION 1. GENERALLY....226
DIVISION 2. PERMITS....226
DIVISION 3. USE REGULATIONS....227
CHAPTERS 59—61 RESERVED....230
CHAPTER 62 SEXUALLY ORIENTED BUSINESSES....231
ARTICLE I. IN GENERAL....231
ARTICLE II. REGULATIONS....231
CHAPTERS 63—65 RESERVED....248
CHAPTER 66 SOLID WASTE....249
ARTICLE I. IN GENERAL....249
ARTICLE II. COLLECTION AND DISPOSAL....249
DIVISION 1. GENERALLY....249
DIVISION 2. CONTAINERS....250
CHAPTERS 67—69 RESERVED....252
CHAPTER 70 STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES....253

ARTICLE I. IN GENERAL....253
ARTICLE II. STREETS GENERALLY....253
ARTICLE III. CONSTRUCTION....256
ARTICLE IV. EXCAVATIONS....266
DIVISION 1. GENERALLY....266
DIVISION 2. PERMITS....267
DIVISION 3. RIGHT-OF-WAY MANAGEMENT....268
CHAPTERS 71—73 RESERVED....280
CHAPTER 74 TAXATION....281
ARTICLE I. IN GENERAL....281
ARTICLE II. OCCUPATION TAX....281
ARTICLE III. IMPACT FEES....282
ARTICLE IV. TELECOMMUNICATIONS....286
CHAPTERS 75—77 RESERVED....287
CHAPTER 78 TELECOMMUNICATIONS....288
ARTICLE I. IN GENERAL....288
ARTICLE II. USE OF RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS....288
CHAPTERS 79—81 RESERVED....305
CHAPTER 82 TRAFFIC AND VEHICLES....306
ARTICLE I. IN GENERAL....306
ARTICLE II. STOPPING, STANDING, PARKING....308
DIVISION 1. GENERALLY....308
DIVISION 2. FIRE LANES....309
ARTICLE III. SPECIFIC STREET REGULATIONS....312
CHAPTERS 83—85 RESERVED....315
CHAPTER 86 UTILITIES....316
ARTICLE I. IN GENERAL....316
ARTICLE II. WATER....318
DIVISION 1. GENERALLY....318
DIVISION 2. CONNECTIONS....331
DIVISION 3. USE REGULATIONS....332
DIVISION 4. RATES, CHARGES, FEES....339
ARTICLE III. SANITARY SEWER SYSTEM....342
DIVISION 1. GENERALLY....342
DIVISION 2. CONNECTIONS....342
DIVISION 3. USE REGULATIONS....343
SUBDIVISION I. IN GENERAL....343
SUBDIVISION II. INFILTRATION....345
DIVISION 4. RATES, CHARGES, FEES....347
ARTICLE IV. EXPANSION AND EXTENSION OF SERVICE....347
DIVISION 1. GENERALLY....347
DIVISION 2. EXPANSION OF SERVICE....348
DIVISION 3. EXTENSION OF SERVICE LINES....348
ARTICLE V. REGULATION OF STORMWATER RUNOFF....350
DIVISION 1. GENERALLY....350
DIVISION 2. ILLICIT DISCHARGE AND CONNECTION....354
DIVISION 3. EROSION AND SEDIMENT CONTROL....360
DIVISION 4. POST CONSTRUCTION STORMWATER RUNOFF....362
CHAPTERS 87—89 RESERVED....365
CHAPTER 90 VEHICLES FOR HIRE....366
ARTICLE I. IN GENERAL....366

ARTICLE II. TOWING COMPANY 366
DIVISION 1. GENERALLY 366
DIVISION 2. TOW TRUCK SERVICE PERMITS 371
CHAPTERS 91—93 RESERVED 377
CHAPTER 94 WATERWAYS 378
ARTICLE I. IN GENERAL 378
ARTICLE II. BOATS 378
ARTICLE III. RESTRICTED ACTIVITIES 379
ARTICLE IV. WATER SAFETY 379

PART II
CITY CODE

Chapter 1
GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Friendswood, Texas", or the "Friendswood City Code" and may be so cited; and when referred to generally shall include the Charter.

(Code 1974, § 1-1; Code 1994, § 1-1; Code 2005, § 1-1)

Charter reference—Authority to codify ordinances, § 3.14(b).

State law reference—Authority to adopt a civil and criminal code of ordinances, V.T.C.A., Local Government Code § 53.001.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, and 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.

Agencies, officers. Any reference to any federal, state or local agency or officer shall include any successor agency or officer.

City. The term "city" means the City of Friendswood located in the Counties of Galveston and Harris, State of Texas.

City manager, city secretary, chief of police or *other city officers.* The terms "city manager," "city secretary," "chief of police" and other city officers, boards, committees, commissions or departments mean the city manager, city secretary, chief of police or such other city officers, boards, committees, commissions or departments, respectively, of the city. Reference to an officer or employee by title shall include his duly authorized assistants or representatives.

Code. Whenever the term "Code" is used in this Part II to the Code, it means the Friendswood City Code.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month of the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

~~Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted.~~

Council, city council. The term "council" or "city council" means the City Council of the City of Friendswood, Texas.

County. The term "county" means the County of Harris or the County of Galveston in the State of Texas, as the context requires.

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

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

Number. Any term importing the singular number includes the plural and any term importing the plural number includes 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 terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

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

Owner. The term "owner," applied to a building or land, includes 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, fiduciaries, representatives and bodies politic and corporate as well as to individuals.

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

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

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

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

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

Tex. Admin. Code, TAC. The abbreviations "Tex. Admin. Code" and "TAC" refer to the Texas Administrative Code, as amended or revised now or in the future.

V.T.C.A. The abbreviation "V.T.C.A." means the most recent edition or supplement of Vernon's Texas Codes Annotated, as amended or revised now or in the future.

Vernon's Ann. Civ. St. The abbreviation "Vernon's Ann. Civ. St." means and includes the most recent edition or supplement of Vernon's Annotated Texas Statutes, Vernon's Annotated Civil Statutes, and Vernon's Texas Civil Statutes, as amended or revised now or in the future.

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 1974, § 1-3; Code 1994, § 1-2; Code 2005, § 1-2; Ord. No. 2010-30, § 1, 10-18-2010)

State law reference—General definitions, V.T.C.A., Government Code § 311.005.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be

titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1974, § 1-2; Code 1994, § 1-3; Code 2005, § 1-3)

Sec. 1-4. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

(Code 1994, § 1-4; Code 2005, § 1-4)

Sec. 1-5. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

(Code 1994, § 1-5; Code 2005, § 1-5)

Sec. 1-6. References and editor's notes.

The references and editor's notes appearing throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

(Code 1994, § 1-6; Code 2005, § 1-6)

Sec. 1-7. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

(Code 1994, § 1-7; Code 2005, § 1-7)

Sec. 1-8. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code so far as they are the same as those of the Friendswood City Code of 2005~~1974~~ and of ordinances existing at the time of adoption of this Code shall be considered as a continuation thereof and not as new enactments.

(Code 1994, § 1-8; Code 2005, § 1-8)

Sec. 1-9. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;

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

(3) Any contract or obligation assumed by the city;

(4) Any right or franchise granted by the city;

(5) Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any street or public way in the city;

(6) Any ordinance relating to municipal street maintenance agreements with the state;

(7) Any ordinance establishing or prescribing grades for streets in the city;

(8) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;

(9) Any ordinance relating to local improvements and assessments therefor;

(10) Any ordinance annexing territory to the city or discontinuing territory as a part of the city;

(11) Any ordinance dedicating or accepting any plat or subdivision in the city;

(12) Any urban renewal ordinance;

~~(13) Any ordinance prescribing subdivision regulations;~~

(13) Any ordinance regarding the Texas Municipal Retirement System;

(14) Any ordinance prescribing personnel policies, procedures, or salaries and wages;

~~(16) Any ordinance prescribing any fees, rates or charges, including utility rates, etc.;~~

(15) Any ordinance regarding elections;

(16) Any ordinance establishing or amending ~~sign, zoning or land use regulations or~~ the zoning map, or rezoning property;

(17) Any ordinance prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no parking areas, truck routes, stop intersections, intersections where traffic is to be controlled by signals, etc.;

(18) Any ordinance prescribing any fee or payment of money to the city for licenses or any other fee or tax;

(19) Any ordinance that is temporary although general in effect;

(20) Any ordinance that is special although permanent in effect;

(21) Any ordinance containing any administrative provisions.

All such ordinances shall remain in effect and are on file in the city secretary's office.

(Code 1994, § 1-9; Code 2005, § 1-9; Ord. No. 230, § 3, 10-7-1974)

Sec. 1-10. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

(Code 1994, § 1-10; Code 2005, § 1-10)

Sec. 1-11. Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make such addition or amendment a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article,

division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Friendswood City Code is hereby amended to read as follows: . . .." The new provisions shall then be set out in full and underlined and material to be omitted shall be enclosed in brackets.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Friendswood City Code is hereby amended by adding a section to be numbered _____, which section reads as follows: . . .." The new section may then be set out in full and underlined.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be, setting such provisions out in full enclosed in brackets.

(Code 1994, § 1-11; Code 2005, § 1-11)

Charter reference—Procedure for ordinances, § 3.11; codification, § 3.14(b).

Sec. 1-12. 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, and shall also include all amendments to the Charter during the period. 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 in the Code, the Code will be current through the date of 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 the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person 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 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 sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance 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 1974, § 1-4; Code 1994, § 1-12; Code 2005, § 1-12)

Charter reference—Method of amending, § 3.14(a); supplements to Code, § 3.14(c).

Sec. 1-13. 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 this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1974, § 1-5; Code 1994, § 1-13; Code 2005, § 1-13)

Sec. 1-14. General penalty for violations of Code; continuing violations.

(a) Whenever in this Code or any other ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine not exceeding $500.00, except for:

(1) Violations of municipal ordinances that govern fire, safety, zoning, public health and sanitation, other than the dumping of refuse, in which the maximum fine shall be $2,000.00 for each offense;

(2) Violations of municipal ordinances that govern dumping of refuse shall have a maximum fine of $4,000.00; and

(3) Violations of traffic laws which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed $200.00.

However, no penalty shall be greater or less than the penalty provided for the same or 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. Any violation of any provision of this Code of Ordinances which constitutes an immediate danger to the health, safety, and welfare of the public may be enjoined in a suit brought by the city for such purposes. If any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the city in addition to the imposition of a fine or imprisonment.

(c) Unless otherwise specifically stated within the provisions of this Code, any violation of this Code or of any ordinance set forth herein that is punishable by a fine that does not exceed $500.00 does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense.

(d) Unless otherwise specifically stated within the provisions of this Code, any violation of this Code or of any ordinance set forth herein that is punishable by a fine that exceeds $500.00 shall require a culpable mental state of intentionally, knowingly, recklessly or with criminal negligence.

(e) In any prosecution in the municipal court of the city or of any other court of competent jurisdiction, a complaint charging a violation of this Code need not negate the existence of any

affirmative defense but the existence of such may be raised by the defendant in any such prosecution by way of defense as provided in the Texas Penal Code.

(f) A complaint charging a violation of any provision of this Code in the municipal court of the city or any other court of competent jurisdiction need not negative the existence of any exception but the existence of the same may be raised by the defendant in such prosecution by way of defense.

(g) The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code.

~~(a) Whenever in this Code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever 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 provision of this Code or any ordinance shall be punished by a fine not exceeding $2,000.00 for violations of all rules, ordinances and police regulations that govern fire safety, zoning or public health and sanitation, including dumping of refuse, nor exceeding $500.00 for all other violations. No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day or fractional part thereof that any violation of this Code or of any ordinance shall continue shall constitute a separate offense. The imposing of such penalty shall not be deemed to prevent the enforced removal and abatement by the city of any prohibited condition.~~

~~(b) In case of the amendment by the city council of any section of this Code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to the section as amended; or in case such amendment contains provisions for which a specified penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section, unless such penalty is specifically repealed therein.~~

(Code 1974, § 1-6; Code 1994, § 1-14; Code 2005, § 1-14)

Charter reference—Council to set by ordinance the fine for violation of § 3.16 of Charter, pertaining to refusal to obey summons from council, § 3.16.

State law reference—Authority to city to prescribe penalties for violation of Code of Ordinances, punishment for violation of ordinance, V.T.C.A., Local Government Code § 54.001; municipal court criminal jurisdiction, V.T.C.A., Government Code § 29.003; punishments, V.T.C.A., Penal Code ch. 12.

Chapter 2

ADMINISTRATION*

***Charter reference**—City council, art. III; meetings of city council, § 3.09; ordinance adoption procedure, publishing requirements, etc., § 3.11; bonds for city officers and employees, § 3.15; administrative services, art. IV; city manager, § 4.01; municipal court, § 4.02; city attorney, § 4.03; city secretary, § 4.04; administrative departments, § 4.05; personnel policies, § 4.05(e); personnel system, § 4.06; campaign contributions prohibited from city employees, § 4.06(c); initiative and referendum, art. V; recall of elected officers, § 5.08; city council candidates, nomination, election, oath, art. VI; elections, art. VI; resignation to run for another office, § 6.02(a)(5); oath, § 6.05; official newspaper, § 11.02.

State law reference—Organization of municipal government, V.T.C.A., Local Government Code ch. 5 et seq.; form of government in home-rule municipality, V.T.C.A., Local Government Code ch. 26.

ARTICLE I. IN GENERAL

Sec. 2-1. City to comply with building codes, land use and zoning regulations.

Notwithstanding any provision contained in any ordinance, rule, policy or procedure of the city to the contrary, the city shall not be immune from its rules and regulations governing building and development. Construction by the city of any building or facility, whether for a governmental or proprietary purpose, shall be conducted in accordance with all rules and regulations of the city that would be otherwise applicable to private sector building or development. Specifically, the city shall adhere to all of its adopted building codes and zoning or other land use regulations.

(Code 2005, § 2-1; Ord. No. 2006-14, § 1, 7-10-2006)

Secs. 2-2--2-18. Reserved.

ARTICLE II. BOARDS, COMMITTEES AND COMMISSIONS*

***Charter reference**—Oath of office, § 6.05; charter review commission, § 11.09.

DIVISION 1. GENERALLY

Secs. 2-19--2-39. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT

~~Sec. 2-40. Fee for application to board of adjustment when public hearing required.~~

~~(a) A fee set by resolution and printed in appendix C and Appendix D to this Code shall be submitted with all applications to the board of adjustment when the applicant is requesting action by such board which requires the calling of a public hearing thereon.~~

~~(b) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $200.00.~~

~~(Code 1974, § 2-7; Code 1994, § 2-36; Code 2005, § 2-40; Ord. No. 2013-43, § 1, 12-2-2013)~~

Secs. 2-40--2-68. Reserved.

DIVISION 3. PLANNING AND ZONING COMMISSION*

***State law reference**—Zoning commission, V.T.C.A., Local Government Code § 211.007.

Sec. 2-69. Created; composition; term of office; removal; filling of vacancies; compensation.

(a) There is hereby created for the city a planning and zoning commission, to be composed of seven members. Such members shall be resident citizens and qualified voters of the city, all of whom shall be appointed by the mayor, subject to confirmation by a majority vote of the city council. All vacancies caused by expiration of terms shall be filled for terms of three years.

(b) Any member of the planning and zoning commission may be removed by the mayor and the city council at any time, with or without cause.

(c) All vacancies for unexpired terms on the planning and zoning commission caused by either resignation, death or removal shall be filled for the remainder of the unexpired term by appointment made by the mayor with the confirmation of a majority vote of the city council.

(d) Members of the planning and zoning commission shall serve without compensation.

(Code 1974, § 2-1; Code 1994, § 2-46; Code 2005, § 2-69)

Sec. 2-70. Ex officio members.

There shall be two ex officio members of the planning and zoning commission, composed of the city secretary and one councilmember who shall be annually selected by the mayor for a one-year term. The ex officio members shall act in an advisory capacity and shall not have the power to vote.

(Code 1974, § 2-2; Code 1994, § 2-47; Code 2005, § 2-70)

Sec. 2-71. Organization; bylaws.

The planning and zoning commission shall elect a chair and vice-chair from its membership and shall have the power to employ such qualified persons as may be necessary for the proper conduct and undertakings of the commission and to pay for their services and other necessary expenses, provided that the cost of such services and expenses shall not exceed the amount appropriated by the city council for the use of the commission. The commission shall also have the power to make rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the city council, and such rules, regulations and bylaws shall be subject to approval by the council. Such bylaws shall include, among other items, provisions for:

(1) Regular and special meetings, to be open to the public;

(2) Records of its proceedings, to be open for the inspection of the public;

(3) Reporting to the city council and the public from time to time and annually; and

(4) The holding of public hearings on its recommendations.

(Code 1974, § 2-3; Code 1994, § 2-48; Code 2005, § 2-71)

Sec. 2-72. Advisory function.

It shall be the duty of the planning and zoning commission to act as an advisory board to the city council and to act on all matters referred to it by the council.

(Code 1974, § 2-4; Code 1994, § 2-49; Code 2005, § 2-72)

Sec. 2-73. Cooperation by other officials, etc.

All department heads and officials of the city shall be available to the planning and zoning commission for advice and consultation and they shall cooperate with and render such services for the commission as shall come within the scope of the duties of such department heads and officials and city employees.

(Code 1974, § 2-5; Code 1994, § 2-50; Code 2005, § 2-73)

Sec. 2-74. Powers and duties.

The planning and zoning commission shall have the power and authority and it shall be its duty, with the consent and at the direction of the city council, to:

(1) Make studies and project plans for the improvements of the city with a view of its development and extension, recommend to the city council all matters for the development and advancement of city facilities, layouts and appearance, and perform the duties imposed upon the planning and zoning commission by the statutes of the state, and specifically V.T.C.A., Local Government Code § 212.001 et seq.;

(2) Make plans and maps of the whole or any portion of the city, and of land outside the city located within the 100-foot strip and any other land outside the city which, in the opinion of the commission, bears relation to the planning of the city, and make such changes, additions and extensions of plans or maps within the city as it deems to be available;

(3) Confer with and advise private property owners pertaining to the location and erection of private structures with the view of having such structures conform to the overall city plan, and advise with the building inspector in the performance of his duties;

(4) Aid and assist the mayor and city council in the preparation of the city budget and determination of sources of funds and in the procuring of financial and other aid and assistance for the city from the state and the federal governments and their agencies for all of the purposes enumerated in this division;

(5) Act with and assist all other municipal and governmental agencies and especially the city council in formulating and executing proper plans for municipal development;

(6) Plan and recommend the location, plan and extent of city alleyways, parks, playgrounds, airports, automobile parking and other public grounds and public improvements for the location and planning of public buildings, schools and other properties, and public utilities, including bus terminals, railroad depots and terminals, whether publicly or privately owned, for water, light, sanitation, sewage disposal, drainage, flood control, transportation, communication and shipping facilities, and for the removing, relocating, widening, extension, narrowing, vacating, abandoning or changing of use of any of the foregoing public places, works, buildings, facilities or utilities;

(7) Plan and recommend to the city council routes, streets, avenues and boulevards, and particularly to investigate and recommend the opening, widening or abandonment of streets, avenues, boulevards and alleyways or the changing thereof to conform to the city's system, present and future, all streets, avenues, boulevards, alleyways and parks;

(8) Investigate, consider and report to the city council upon the layout and plan of any new subdivision as outlined in the subdivision regulations for the city;

(9) Recommend to the city council for adoption additional rules and regulations governing plats and subdivisions of land within the corporate limits of the city within the 100-foot boundary to promote the health, safety, morals and general welfare of the community, and the safe, orderly and healthful development of the community;

(10) Recommend plans to the city council in devising, establishing, locating, improving, selecting, maintaining, expanding and beautifying the public parks, playgrounds and lakes for public recreation;

(11) Aid and assist the city council by recommending plans for the development of civic centers, and make investigations and consider and make recommendations to the city council concerning traffic regulations, routing and control and highway designations;

(12) Review all zoning regulations and make recommendations of amendments thereto, and review and act on all exceptions permitted under zoning changes involving major land use.

(Code 1974, § 2-6; Code 1994, § 2-51; Code 2005, § 2-74)

Secs. 2-75--2-91. Reserved.

ARTICLE III. EMPLOYEE BENEFITS

DIVISION 1. GENERALLY

Sec. 2-92. Employee retirement.

Pursuant to the provisions of V.T.C.A., Government Code ch. 851 et seq.~~§ 854.202(g)~~, which shall herein be referred to as the "TMRS Act," the city adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System (herein referred to as the "system"):

(1) Any employee of the city who is a member of the system is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the system performed for one or more municipalities that have adopted a like provision under V.T.C.A., Government Code § 854.202(g) of the TMRS Act.

(2) Prior to adopting the ordinance from which this article is derived, the governing body of the city has:

a. Prepared an actuarial analysis of member retirement annuities at 20 years of service; and

b. Held a public hearing pursuant to the notice provisions of the Texas Open Meetings Act, V.T.C.A., Government Code ch. 551.

(3) The rights hereinabove authorized shall be in addition to the plan provisions heretofore adopted and in force at the effective date of the ordinance from which this article is derived pursuant to the TMRS Act.

(Code 1994, § 2-71; Code 2005, § 2-92; Ord. No. 98-25, § 1, 9-14-1998)

Sec. 2-93. Authorization of updated service credits.

(a) On the terms and conditions set out in V.T.C.A., Government Code §§ 853.401--853.404 (hereinafter referred to as the "system"), who has current service credit or prior service credit in the system in force and effect on January 1 of the calendar year preceding such allowance, by reason of service in the employment of the city and on such date had at least 36 months of credited service with the system, shall be and is hereby allowed "updated service credit" (as the term is defined in V.T.C.A., Government Code § 853.402(d) ~~of 853.402~~ of the TRMS Act).

(b) On the terms and conditions set out in section 853.601 of the TRMS Act, any member of the system who is eligible for updated service credits on the basis of service with this city, who has unforfeited credit for prior service and/or current service with another participation municipality of municipalities by reason of previous service, and was a contributing member on January 1 of the calendar year preceding such allowance shall be credited with updated service credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in said section 853.601, both as to the initial grant thereunder and all future grants under this article.

(c) The updated service credit hereby allowed and provided for shall be 100 percent of the "base updated service credit" of the member (calculated as provided in V.T.C.A., Government Code § 853.402(c) of the TRMS Act).

(d) Each updated service credit allowed hereunder shall replace any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial allowance of updated service credit hereunder shall be effective on January 1, 1999, subject to approval by the board of trustees of the system. An allowance shall be made

hereunder on January 1, of each subsequent year until this article ceases to be in effect under V.T.C.A., Government Code § 853.404(e) of the TRMS Act, provided that, as to such subsequent year, the actuary for the system has made the determination set forth in V.T.C.A., Government Code § 853.404(d) of the TRMS Act.

(f) In accordance with the provisions of V.T.C.A., Government Code § 853.401(d) of the TRMS Act, the deposits required to be made to the system by employees of the several participating departments on account of current service shall be calculated from and after the effective date of the ordinance from which this section is derived on the full amount of such person's compensation as an employee of the city.

(g) Effective January 1, 1999, for each month of current service thereafter rendered by each of its employees who are members of the state municipal retirement system, the city will contribute to the current service annuity reserve of each such member at the time of his retirement, a sum that is 200 percent of such member's accumulated deposits for such month of employment; and said sum shall be contributed from the city's account in the municipality accumulation fund.

(h) All employees of the city, who are members of the state municipal retirement system, shall make deposits to the system at the rate of seven percent of their individual earnings.

(Code 1994, § 2-72; Code 2005, § 2-93; Ord. No. 98-26, 9-14-1998)

Sec. 2-94. Current and prior contribution at rate of total compensation.

Pursuant to section 855.407(g) of the TMRS Act, the city hereby elects to make future normal and prior service contributions to its account in the municipal accumulation fund of the system at such combined rate of the total compensation paid by the city to employees who are members of the system, as the system's actuary shall annually determine as the rate necessary to fund, within the amortization period determined as applicable to the city under the TMRS Act, the costs of all benefits which are or may become chargeable to or are to be paid out of the city's account in said accumulation fund, regardless of other provisions of the TMRS Act limiting the combined rate of city contributions.

(Code 2005, § 2-94; Ord. No. 2008-43, § 1, 12-15-2008)

Secs. 2-95--2-114. Reserved.

DIVISION 2. FEDERAL OLD AGE AND SURVIVORS BENEFITS*

***Editor's note**--Due to adoption of Vernon's Ann. Civ. St. art. 6228a-6, the administration of Federal social security coverage for employees of political subdivisions was transferred in 1975 from the department of public welfare to the employee retirement system of Texas.

Charter reference—Pensions and insurance, § 4.05(d).

State law reference—Social security benefits, transfer of administration from department of public welfare; agreements to remain in effect, Vernon's Ann. Civ. St. art. 6228a-6; coverage of social security for employees of political subdivisions, V.T.C.A., Government Code § 606.021 et seq.

Sec. 2-115. Agreements to be entered into.

The city council, acting for and on behalf of the city, shall enter into all necessary agreements with the municipal retirement system of the state for the purpose of carrying out the provisions of state law and PL 734, 81st Congress, ch. 809, 2d, H.R. 600 (42 USC 401 et seq.).

(Code 1974, § 14-1; Code 1994, § 2-81; Code 2005, § 2-115)

Sec. 2-116. Agent to execute agreements.

The mayor is appointed as agent of the city council and of the city to execute all necessary agreements and instruments for and on behalf of the city council and city.

(Code 1974, § 14-2; Code 1994, § 2-82; Code 2005, § 2-116)

Sec. 2-117. Assessments, etc.

The city secretary is directed to be the person responsible for making assessments, collections, payments and reports as required by the state.

(Code 1974, § 14-3; Code 1994, § 2-83; Code 2005, § 2-117)

Sec. 2-118. Fund.

A sufficient sum of money shall be allocated and set aside from available funds for the purpose of carrying out the provisions of the acts referred to in this division, such money so allocated and set aside to be known as the Social Security fund, which fund shall be set aside and maintained in the regular city depository.

(Code 1974, § 14-4; Code 1994, § 2-84; Code 2005, § 2-118)

Secs. 2-119--2-177. Reserved.

~~ARTICLE IV. RESERVED*~~

~~***Editor's note**--Ord. No. 2006-13, § 1, adopted July 10, 2006, repealed art. IV, which consisted of §§ 2-140--2-157, pertained to a code of ethics, and was derived from Ord. No. 91-21, § 1, adopted Aug. 5, 1991; Ord. No. 98-35, §§ 1, 2, adopted Nov. 2, 1998; Code 1994, §§ 2-106--2-123; Ord. No. 2005-13, § 2, adopted April 4, 2005.~~

~~**Secs. 2-140--2-177. Reserved.**~~

ARTICLE IV. RECORDS AND INFORMATION MANAGEMENT*

***Charter reference**—Custodian of all records, § 4.04(a)(2); public records management, § 11.01.

State law reference—Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.; management and preservation of public records, V.T.C.A., Local Government Code § 203.021 et seq.; preservation and management of local government records, V.T.C.A., Government Code § 441.151 et seq.; public information, V.T.C.A., Government Code § 552.001 et seq.

Sec. 2-178. Title, policy and purpose.

This article shall be known and be cited as the "Records and Information Management Ordinance for the City of Friendswood, Texas." It is hereby declared to be the policy of the city to develop a records and information management program that provides for efficient, economical and effective control 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.

(Code 1974, § 2-40; Code 1994, § 2-146; Code 2005, § 2-178)

Sec. 2-179. 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 record shall have the same meaning as a "local government record," as set forth in V.T.C.A., Government Code § 441.151(8).

Director and *librarian* means the executive and administrative officer of the state library and archives commission.

(Code 1974, § 2-41; Code 1994, § 2-147; Code 2005, § 2-179)

Sec. 2-180. City records declared public property.

All city records are hereby declared to be the property of the city. No city officer or employee shall have, by virtue of his office or employment, any personal or property right to any such records even though he may have developed or compiled them. No person shall destroy, remove or use any city record except as authorized by law, this article or the policies and procedures of the city; provided, however, that no policy or procedure regarding use, removal or destruction of city records shall be adopted which conflicts with this article or applicable state or federal law; and provided further, that nothing contained in this article shall be construed to authorize the disclosure of city records which are exempt from disclosure under state or federal law.

(Code 1974, § 2-42; Code 1994, § 2-148; Code 2005, § 2-180)

Sec. 2-181. Records and information management responsibility established.

There is hereby established a records and information management program. The city secretary shall administer the records and information management program and shall be responsible for citywide files management. In addition, the city secretary shall have direction and control of the city's records disposition program.

(Code 1974, § 2-43; Code 1994, § 2-149; Code 2005, § 2-181)

Sec. 2-182. Duties of city secretary.

The city secretary shall:

(1) Assist in establishing and developing policies and procedures for a records management program for the city;

(2) Administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;

(3) In cooperation with the custodians of the records:

a. Prepare and file with the director and librarian the records control schedules and amended schedules required by V.T.C.A., Local Government Code § 203.041, and the list of obsolete records as provided by V.T.C.A., Local Government Code § 203.044~~203.444~~; and

b. Prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by V.T.C.A., Local Government Code § 203.045, or requests to destroy the originals of permanent records that have been microfilmed as provided by V.T.C.A., Local Government Code § 204.008, and of electronic storage authorization requests as provided by V.T.C.A., Local Government Code § 205.007;

(4) In cooperation with custodians, identify and take adequate steps to protect essential city records;

(5) In cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction or other disposition of city records is carried out in accordance with the policies and procedures of the city's records management program, this article and rules adopted pursuant to this article;

(6) Disseminate to the city council and custodians information concerning state laws, administrative rules and the policies of the government relating to local government records; and

(7) In cooperation with custodians, establish procedures to ensure that the handling of city records by the records management officer or those under the officer's authority is carried out in compliance with the records management program and with due regard for the

duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

(Code 1974, § 2-44; Code 1994, § 2-150; Code 2005, § 2-182)

Sec. 2-183. Responsibilities of department heads.

All city department heads are responsible for the implementation and operation of effective files operations, record transfers and dispositions, and other activities in accordance with the provisions of this article within their areas of responsibility. They shall designate records coordinators within their offices and provide the city secretary with the names of such designees and of all file stations and file custodians under their supervision. Persons designated as records coordinators shall report directly to the head of their department on matters relating to the records management program and should have appropriate access to all files in their department.

(Code 1974, § 2-45; Code 1994, § 2-151; Code 2005, § 2-183)

Sec. 2-184. Responsibilities of records coordinators.

Each records coordinator shall coordinate the records management program between the city secretary and personnel in the record coordinator's office to ensure that the provisions of this article are followed. This responsibility shall include overseeing the application of records schedules within the office or department.

(Code 1974, § 2-46; Code 1994, § 2-152; Code 2005, § 2-184)

Sec. 2-185. City offices to use record schedules.

All city offices and departments shall adopt records retention and disposition schedules and destroy, transfer or otherwise dispose of records only according to such schedules.

(Code 1974, § 2-47; Code 1994, § 2-153; Code 2005, § 2-185)

Sec. 2-186. Development of records retention and disposition schedules.

(a) Initial retention periods to be included in records schedules shall be established by the city secretary, city manager and department heads. These retention schedules shall be submitted to the city attorney for review, and the city attorney shall notify the city secretary within 15 days of the approval of or objection to any retention period. If no objection has been submitted within the 15 days, the records schedule shall be adopted and have full force as sufficient authorization for records destruction or other action. If objection is made, the city secretary shall amend the retention period to the satisfaction of the office or department concerned, the city manager and city attorney. Revision of retention periods shall be submitted for review to the city attorney and city manager in the same manner as the original retention periods.

(b) When a records retention and disposition schedule is adopted, it shall thenceforth constitute full authority to destroy, transfer or take other actions, and the city council hereby directs that such actions be taken by the city secretary or under his supervision. The city secretary shall notify the state librarian of the intended destruction, as may be required by law, but no further notice to the city council or other city office shall be required.

(Code 1974, § 2-48; Code 1994, § 2-154; Code 2005, § 2-186)

State law reference—Records control schedules, V.T.C.A., Local Government Code § 203.041 et seq.

Sec. 2-187. Destruction of original city records.

No original city record shall be destroyed if such destruction is contrary to any state or federal law. Prior to the destruction of any original city record, the city secretary shall obtain the advice and consent of the city attorney. Any original city record, the subject matter of which is in litigation, may not be destroyed until such litigation is final.

(Code 1974, § 2-49; Code 1994, § 2-155; Code 2005, § 2-187)

State law reference—Destruction of records, V.T.C.A., Local Government Code § 203.044 et seq.

Sec. 2-188. One-time destruction of obsolete records.

Prior to adoption of records schedules for an office, one-time destruction of accumulated obsolete records of that office may be made by or under the supervision of the city secretary. Prior to such destruction, the city secretary shall submit lists of records to be destroyed to the department head, city attorney and city manager, who shall give notice within 30 days of any records they believe should not be destroyed, and such records shall be retained for a period agreed upon. The city secretary shall also submit notice as required by law to the state librarian and director pursuant to V.T.C.A., Local Government Code § 203.044. Obsolete records shall include those no longer created by the office or department and no longer needed for administrative, legal, fiscal or other research purposes.

(Code 1974, § 2-50; Code 1994, § 2-156; Code 2005, § 2-188)

State law reference—Destruction of obsolete records, V.T.C.A., Local Government Code § 203.044.

Sec. 2-189. Records center.

A records center shall be maintained by the city, which shall utilize one or more locations to store inactive records to ensure the security of such records from deterioration, theft or damage during the period of storage and to permit fast, efficient retrieval of information from stored records.

(Code 1974, § 2-51; Code 1994, § 2-157; Code 2005, § 2-189)

Sec. 2-190. Preservation of permanent records.

The city secretary shall develop procedures to ensure the permanent preservation of historically valuable records of the city. If city-owned facilities are not available, the city secretary shall arrange for the transfer of such records to the state library for perpetual care and preservation in one of its nearby regional historical resource depositories or shall make other arrangements for their permanent preservation not contrary to law or regulation.

(Code 1974, § 2-52; Code 1994, § 2-158; Code 2005, § 2-190)

Sec. 2-191. Noncurrent records not to be maintained in office files.

Records no longer required in the conduct of current business by any office of the city shall be promptly transferred to the records center or archives or the state library or be destroyed at the time such action is designated on an approved records schedule. Such records shall not be maintained in current office files or equipment.

(Code 1974, § 2-53; Code 1994, § 2-159; Code 2005, § 2-191)

Secs. 2-192--2-220. Reserved.

ARTICLE V. FINANCE*

***State law reference**—V.T.C.A., Finance Code ch. 1 et seq.; finances, V.T.C.A., Local Government Code ch. 101 et seq.

Sec. 2-221. Additional fee for post due fines, fees, other debts.

In accordance with V.T.C.A., Code of Criminal Procedure art. 103.0031, there shall be imposed an additional fee of 30 percent on all debts and accounts receivable; i.e., fines, fees, restitution, other debts and costs that are more than 60 days past due and have been referred to a private firm for collection.

(Code 2005, § 2-221; Ord. No. 2008-03, § 2, 2-18-2008)

Chapters 3--5

RESERVED

Chapter 6

ALCOHOLIC BEVERAGES*

***State law reference—**Alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 1.01 et seq.; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 109.31 et seq.; local fee authorized, V.T.C.A., Alcoholic Beverage Code § 11.38; local license fee authorized, V.T.C.A., Alcoholic Beverage Code § 61.36; local regulation of billboards and electric signs, V.T.C.A., Alcoholic Beverage Code § 108.55; local option elections, V.T.C.A., Alcoholic Beverage Code § 251.71~~01~~ et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. 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:

Generally. The words, terms and phrases used in this chapter, except where the context clearly indicates otherwise, are as defined in V.T.C.A., Alcoholic Beverage Code § 1.04.

Tax assessor and collector means the city secretary.

(Code 1974, § 11-36; Code 1994, § 6-1; Code 2005, § 6-1; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-2. Levy of permit or license fee.

(a) *Permit fees.* There is hereby levied a separate fee upon the holder of each and every state permit to sell, manufacture, store or deliver liquor, wine or beer from premises located within the city.

(1) The fee shall be one-half of the charge made by the state for each state permit or the maximum amount permitted by law, whichever is greater.

(2) The amount of applicable fees shall be double for a state permit with a two-year term.

(3) The following shall be exempt from the fee authorized by this section:

a. Agent's, airline beverage, passenger train beverage, industrial, carrier's, private carrier's, private club registration, local cartage, storage and temporary wine and beer retailer's permits;

b. A wine and beer retailer's permit issued for a dining, buffet or club car; and

c. A mixed beverage permit during the three-year period following the issuance of the permit.

(b) *License fees.* There is hereby levied a separate fee upon each holder of each and every state license, except a temporary or agent's beer license, issued for premises located within the city, to the fullest extent authorized by V.T.C.A., Alcoholic Beverage Code § 61.36.

(1) The fee shall be one-half of the charge made by the state for each state license or the maximum amount permitted by law, whichever is greater.

(2) The amount of applicable fees shall be double for a state license with a two-year term.

(Code 1974, § 11-37; Code 1994, § 6-2; Code 2005, § 6-2; Ord. No. 2010-01, § 2, 1-25-2010)

State law reference—Authority to levy alcoholic beverage fees, V.T.C.A., Alcoholic Beverage Code §§ 11.38, 61.36.

Sec. 6-3. Fee receipt; expiration.

For each fee paid under section 6-2, a separate receipt shall be issued by the city, and each such receipt and fee shall expire and terminate on the expiration date of the state permit or license.

(Code 1974, § 11-38; Code 1994, § 6-3; Code 2005, § 6-3; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-4. Commencement of operation.

Every person owning, operating, managing or controlling any premises on which a city fee is levied under section 6-2, shall not commence operations under any such state permit or license until the city fee has been paid and the current receipt issued by the city is displayed in the manner required for display of a state permit or license.

(Code 1974, § 11-39; Code 1994, § 6-4; Code 2005, § 6-4; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-5. Failure to pay fee ~~penalties~~.

If a person required by the provisions of this chapter to pay a fee imposed under section 6-2, shall fail to pay such fee or display a current receipt in the same manner for the display of the state permit, such person shall be deemed guilty of a misdemeanor ~~and upon conviction shall be punished pursuant to section 1-14~~.

(Code 1974, § 11-41; Code 1994, § 6-5; Code 2005, § 6-5; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-6. Location of alcoholic beverage sales restricted.

(a) It shall be unlawful to sell or offer for sale any alcoholic beverage from a place of business which is located within 300 feet of a church, public school or public hospital.

(b) For the purposes of this section, the measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public schools shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.

~~(c) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as prescribed in section 1-14.~~

(Code 1974, § 11-40; Code 1994, § 6-6; Code 2005, § 6-6; Ord. No. 91-3, §§ 1--4, 2-4-1991; Ord. No. 91-33, §§ 1--4, 12-2-1991; Ord. No. 93-14, § 1, 9-27-1993; Ord. No. 2010-01, § 2, 1-25-2010; Ord. No. 2012-17, § 2, 9-10-2012)

State law reference—Sales near school, church or hospital, V.T.C.A., Alcoholic Beverage Code § 109.33.

Secs. 6-7--6-20. Reserved.

ARTICLE II. PROHIBITION OF NUDITY IN COMMERCIAL ESTABLISHMENTS SERVING OR PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES

Sec. 6-21. Purpose.

The purpose of this article is to prohibit certain acts of commercial exploitation of human sexuality in commercial establishments within the city limits, where alcoholic beverages are served, offered for sale for consumption on the premises, or permitted to be consumed on the premises, and to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace and good order of the community, to prohibit lewd and unlawful activity, such as prostitution and the proliferation of controlled substances, all of which may occur when such commercial exploitation is permitted in such places, and to promote the preservation of property values of neighborhoods and adjacent properties.

(Code 1994, § 6-7; Code 2005, § 6-21; Ord. No. 98-9, § 1, 4-20-1998)

Sec. 6-22. Prohibition.

(a) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed:

(1) To suffer or permit any female person, while on the premises of said commercial establishment, to expose that area of the human female breast at or below the top of the areola thereof;

(2) To suffer or permit any female person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate such portions of the human female breasts as described in subsection (b) of this section;

(3) To suffer or permit any person, while on the premises of said commercial establishment, to expose his genitals, pubic area, buttocks, anus or anal cleft or cleavage; or

(4) To suffer or permit any person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft, or cleavage.

(b) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose that area of the human female breast at or below the top of the areola thereof, or to use any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

(c) It shall be unlawful for any person, while on the premises of a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose his genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage.

(Code 1994, § 6-8; Code 2005, § 6-22; Ord. No. 98-9, § 1, 4-20-1998)

~~**Sec. 6-23. Penalties.**~~

~~Any violation of the provisions of this article shall be subject to the general penalties applicable for such violations as the same are set out in sections 6-5 and 1-14 of this Code.~~

~~(Code 1994, § 6-9; Ord. No. 98-9, § 1, 4-20-1998)~~

Sec. 6-23. Injunctive relief.

The city attorney is and shall be hereby authorized to seek compliance with this article by seeking injunctive relief in a court of proper jurisdiction to compel the operator, owner, or other violator of this article as the same shall be established, to comply with the terms and provisions thereof. The ability of the city to seek injunctive relief hereunder shall not be subject to, nor shall it be a prerequisite thereof, that the city has sought compliance with this article by application of penalties and sanctions as otherwise set out in this article.

(Code 1994, § 6-10; Code 2005, § 6-24; Ord. No. 98-9, § 1, 4-20-1998)

Chapters 7--9

RESERVED

Chapter 10

ANIMALS*

***State law reference**—Authority to regulate care and control of animals, V.T.C.A., Health and Safety Code § 826.033; health and safety of animals, V.T.C.A., Health and Safety Code §§ 821.001--828.013; treatment and disposition of animals, V.T.C.A., Health and Safety Code § 821.001 et seq.; cruelty to animals, V.T.C.A., Penal Code § 42.09 et seq. ~~42.11.~~

ARTICLE I. IN GENERAL

Sec. 10-1. Purpose of chapter.

The primary function and intent of this chapter is protection of the health, safety, and welfare of the citizens of the city by controlling the animal population and establishing uniform rules and regulations for the control and eradication of rabies.

(Code 1974, § 3-16; Code 1994, § 10-1; Code 2005, § 10-1; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-16), 1-7-2002)

Sec. 10-2. Conformance with chapter and other regulations required.

Animal population, animal control, prohibition, and exceptions for keeping wild or exotic animals, rabies vaccination, rabies eradication, licenses, permits, fees, revocation of permits or licenses, quarantining, impoundment, nuisances, animal establishments, shall be accomplished and regulated in accordance and conformance with this chapter, V.T.C.A., Health and Safety Code ch. 826, and the "Rabies Control and Eradication" rules of the state department of health, and as implemented by this chapter and related regulations adopted by city council.

(Code 1974, § 3-15; Code 1994, § 10-2; Code 2005, § 10-2; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-15), 1-7-2002)

Sec. 10-3. Definitions.

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

Abandoned animal means any animal that has not been provided with one or more of the necessities of life, including air, food, water, or protection from the sun and other elements of nature, or has been left in the custody of another person without their consent.

Animal means any mammal, domesticated or wild.

Animal at-large means:

(1) *Off-premises*. Any animal that is not restrained by means of a leash or chain of sufficient strength, and not more than six feet in length, designed to control the actions of such animal while off the owner's property.

(2) *On-premises*. Any animal not confined on the premises of its 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 of sufficient strength to prevent the animal from escaping from premises and so arranged that the animal will remain upon the premises and not come any closer than ten feet to a public walkway, sidewalk, street, or property line when the restraint is stretched to full length, or within sight or voice command of the owner.

Animal control officer means a person designated by the city to represent and act on behalf of the city in the impounding of animals, controlling of animals running at-large, issuing citations, serving summons, testifying in court, and as otherwise required to enforce the provisions of this chapter and all other regulations relating to animals as authorized by state law.

Animal shelter means any facility operated by the city, a humane society, municipal agency, or any other governmental entity, or their authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Auction means any place or facility where animals are regularly bought, sold, or traded, or where animals are sold to the highest bidder, except those facilities otherwise defined in this chapter. This definition does not apply to the individual sale of animals by their owners.

Circus means a commercial variety show featuring animal acts for public entertainment.

Confined or *confinement* means restricted within a building, house, or structure, or within a fenced yard or premises, so that the animal cannot escape from said building, house, structure, or fenced yard or premises without human assistance.

Dangerous animal means an animal that has:

(1) Made at least one unprovoked attack on a victim, which did not result in the victim's receiving a severe injury but did result in some physical injury, such as a laceration or puncture wound to the victim;

(2) On at least one occasion, although unprovoked, chased or approached a person or animal victim on a street, sidewalk, or any public or private property not owned or controlled by the harborer of the animal, in a menacing manner or with an apparent attitude of attack;

(3) A known propensity, tendency, or disposition to, although unprovoked to attack, cause injury or threaten the safety of persons or other animals; or

(4) Been declared a dangerous animal previously by the director.

Director means the supervisor of the city's animal control department or his authorized representative.

Domestic animal means any animal that is habituated to live in or about the habitations of persons ~~men and or family~~.

Domesticated animal means any animal that is not wild or a wild animal that has been converted to domestic use.

Enclosure means a house or a building, or a fence or a structure/pen. In order to qualify as an "enclosure," the fence or structure/pen must have minimum dimensions of five feet by ten feet, must be of a height so as to prevent entry by young children or escape by any dog jumping over it, must be secured so that a dog cannot climb, dig, or otherwise escape on its own volition, must be securely locked at all times, must have secure sides to prevent a dog from escaping from the enclosure in any manner, and must provide protection from the elements for the animal contained therein.

Exotic animal means the same as "wild animal."

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

High-risk animals means and includes skunks, bats, foxes, raccoons, and other similar animals.

Hobby breeder means any person engaged in the recreational activity of raising or breeding animals and includes the occasional sale or trade of the offspring of such animals as a means to recover expenses and reduce the population of the housed animals. A person engaged in the hobby breeding birds shall house no more than 20 birds. The city council, following recommendation by the director, shall hereafter establish the necessary qualifications of a hobby breeder.

Kennel means any building, establishment, place, or premises wherein any person engages in the boarding, breeding, buying, selling, letting for hire, or training for a fee any canine or feline animal or animals, or wherein any person keeps, harbors, owns, or maintains more than a total of four dogs and ~~or~~ cats over three months of age.

Licensing authority shall have the same meaning as the term "director."

Livestock means any breed of large domesticated animals, to include, but not be limited to, cattle, horses, sheep, goats, rabbits, llamas, alpaca and vicuna.

Low-risk animals means all animals of the orders Marsupialia, Insectivore, Rodentia, Lagomorphs, and Xenartha.

Miniature swine means any member of the swine family that has, through selective breeding, been genetically manipulated so as to attain a maximum height of 18 inches at the shoulder and a maximum weight of 60 pounds.

Multiple dwelling means any structure designed and intended to accommodate more than one family and includes, but is not limited to, duplex buildings and apartment buildings.

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days.

Person means any individual, partnership, firm, public or private corporation, association, trust, or estate.

Pet shop means any building, establishment, premises, or place used for or in the business of buying, selling, trading, or boarding any species of animal which shall include, but not be limited to, gerbils, hamsters, guinea pigs, mice, rabbits, birds, dogs, cats, fish, and reptiles. The term "pet shop" does not include a licensed kennel or individual sales of animals by owners. The term "pet shop" does not include hobby breeders, or persons engaged in the raising or breeding of large domesticated animals such as cattle, horses, goats, or sheep.

Quarantine means complete and total isolation in such a place, in such a manner, and for a period of time as the director may prescribe.

Regulatory authority means the director or his duly authorized representative.

Riding school or *riding stable* means any place that has available for hire, boarding, and/or riding any horse, pony, donkey, mule, or burro.

TDH means the Texas Department of Health.

Unprovoked attack means an attack by an animal on a victim who, at the time of the attack by the animal, was not committing a willful trespass or other tort upon the premises occupied by the owner or harborer of the animal; was not teasing, tormenting, abusing, or hitting the animal; had not in the past been observed or reported to have teased, tormented, abused, or hit the animal; was not committing or attempting to commit a crime or, if the victim was an animal, an attack on an animal which, at the time of the attack or bite by the animal, was not attacking or attempting to attack the animal or the animal's owner, harborer, or relative of the owner or harborer.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery and the diagnosis and treatment of diseases and injuries to animals.

Vicious animal means an animal that has:

(1) While off or on the property of its owner, and without provocation, killed, severely injured, or mauled a victim;

(2) On two occasions within a 24-month period, attacked or bitten, without provocation, a victim engaged in a lawful activity; or

(3) Been trained for animal fighting or is owned or kept for the purpose of animal fighting.

Victim means a person, dog, cat, horse, cow, or other domestic animal attacked by an animal.

Wild animal means and includes any mammal, amphibian, reptile, or fowl, which is of a species that is wild by nature and of a species, which, due to size, vicious nature, or other characteristic, is or may be dangerous to human beings. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, lynx, wolves, raccoons, ratites (ostriches, rheas, cassowaries, and emus), skunks (whether deodorized or not), monkeys whose average weight as an adult exceeds 20 pounds, foxes, elephants, rhinoceroses, alligators, crocodiles, and all forms of poisonous reptiles; any species of animal which is considered endangered by international, federal, or state regulations. The term "wild animal," as used in this chapter, shall not include ferrets, gerbils, hamsters, guinea pigs, mice, or rabbits.

Zoological park means a tract of land set aside in a natural or manmade state and which displays or exhibits more than one exotic animal under the control and supervision of a professional animal handler and cared for by a licensed veterinarian. The director may require proof of animal handling experience. The park shall be constructed in such a manner as to preclude the possibility of an animal escaping from such park and its cages or pens. Park construction, pens, cages, and equipment shall be designed and constructed in such a manner as to protect the animals and the public. The director may require proof of acceptable design and construction. All animals therein and their enclosures shall be approved by the director. Where required, all zoological parks shall be federally inspected and licensed. A park attendant shall be on duty at all times the park is open or accessible to the public.

(Code 1974, § 3-17; Code 1994, § 10-3; Code 2005, § 10-3; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-17), 1-7-2002)

~~**Sec. 10-4. Penalty for violation of chapter.**~~

~~Any person who shall intentionally, knowingly, recklessly, or with criminal negligence commits any act or acts prohibited or made or declared to be unlawful by this chapter, or who fails to perform any act or acts required by this chapter, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $2,000.00. Each day of such violation shall constitute a separate offense.~~

~~(Code 1974, § 3-48; Ord. No. 88-21, § 1, 3-20-1989; Code 1994, § 10-4; Ord. No. 2001-25, § 1(3-53), 1-7-2002)~~

Sec. 10-4. Enforcement.

The director or his designated representative shall enforce the provisions of this chapter. Under this chapter it shall be unlawful for any person to intentionally or knowingly:

(1) Refuse to surrender any animal subject to capture upon the demand of an animal control officer or peace officer;

(2) Interfere with an animal control officer or peace officer who is attempting to capture or who has captured any animal subject to capture and such interference allows the animal to escape; or

(3) Refuse to deliver an animal subject to capture to a licensed veterinarian for observation or treatment upon the demand of an animal control or peace officer.

(Code 1974, § 3-45; Code 1994, § 10-5; Code 2005, § 10-5; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-50), 1-7-2002)

Sec. 10-5. Director may promulgate rules.

The director shall have the power, subject to approval of the city council, to prescribe and promulgate such rules and regulations, not inconsistent with any law of the state or this chapter, as he may deem necessary to protect the health and safety of the citizens and to effectively perform the duties imposed herein.

(Code 1974, § 3-44; Code 1994, § 10-6; Code 2005, § 10-6; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-49), 1-7-2002)

Sec. 10-6. Duties of director.

Under authority of the city council, the director shall enforce any and all regulations of this chapter in any and all parts of the city as is necessary to control the animal population and protect the health and safety of the citizens of the city. In furtherance thereof, the director shall:

(1) *Collect fees*. Collect all fees set by resolution and printed in Appendix D to this Code ~~the city council~~, as necessary, to recover the costs incurred in enforcing the requirements of this chapter. The director may further collect all unpaid cost, fees, or charges incurred by the animal while in violation of this chapter.

(2) *Make inspections*. Make all inspections required herein.

(3) *Capture and impound*. Capture and impound, or cause to be captured or impounded, in the manner authorized by law, all animals within the city, which are in violation of this chapter. The director may trap, capture, shoot, tranquilize, or use any other means or methods he deems necessary and prudent to perform the duties imposed herein. Any person who has control or possession of any animal, and who is in violation of this chapter shall, upon demand, turn over such animal to the director.

(Code 1974, § 3-43; Code 1994, § 10-7; Code 2005, § 10-7; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-48), 1-7-2002)

Sec. 10-7. Appeals from decision of director.

Whenever in this chapter provision is made for a hearing before the director, any person aggrieved by the decision of the director following such hearing may appeal same to the city council by giving notice thereof, served upon the city secretary, within 72 hours following the date the decision was so rendered. The city council shall hold a hearing on the appeal within 30 days following the date of notice of such appeal. Any such notice shall be served in writing, shall state the interest of the person appealing, the reason for the appeal, and a general description of the factual grounds upon which the appellant contends the decision of the director was incorrect.

(Code 1974, § 3-46; Code 1994, § 10-8; Code 2005, § 10-8; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-51), 1-7-2002)

Sec. 10-8. Issuance of citations.

In addition to or in lieu of impounding an animal that is found to be in violation of any provision of this chapter, or in addition to or in lieu of suspension or revocation of a license or permit, the director, or any peace officer, may issue to the owner of such animal or the holder of such license or permit for such animal, a notice of violation and shall file a complaint relating thereto with the municipal court of the city. Upon conviction of a violation of this chapter, the owner shall be penalized as provided in section ~~10-4~~ 1-14.

(Code 1974, § 3-47; Code 1994, § 10-10; Code 2005, § 10-9; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-51), 1-7-2002)

Sec. 10-9. Keeping of wild or exotic animals prohibited; exception.

The director shall develop, and submit to city council for approval, rules and regulations to restrict the keeping of wild and/or exotic animals within the city to only those persons who have the knowledge, expertise, ability, grounds, facilities, and equipment to care for such animals. Following such approval, it shall be unlawful for any person to own, keep or harbor a wild or exotic animal, except in accordance with this chapter and the rules and regulations regarding the keeping of exotic animals adopted pursuant hereto. It is also the purpose and intent of this section to prohibit the owning, keeping, or harboring of wild and/or exotic animals as pets within the city.

(1) *Possession prohibited*. It shall be unlawful for any person to buy, sell, own, or keep or allow, suffer, or cause to be bought, sold, owned, or kept, any wild or exotic animal upon or within any premises within the city, except as permitted by duly adopted regulations.

(2) *Exotic animal permit*. The director may issue an exotic animal permit only as authorized by the rules and regulations provided herein, or in such other regulations as the city council may, from time to time, adopt.

(3) *Temporary permit*. The director may issue a temporary permit for the keeping, care, and protection of an infant wild animal native to the area, which has been deemed to be homeless or injured. The application for a temporary permit shall be accompanied by a letter or statement of approval from the state department of parks and wildlife.

(4) *Exceptions*. This section shall not be construed to apply to veterinary hospitals, zoological parks, or performing animal exhibitions or circuses, which have applied for and received a permit from the director as provided herein or in such other regulations as city council may, from time to time, adopt.

(Code 1974, § 3-40; Code 1994, § 10-11; Code 2005, § 10-10; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-42), 1-7-2002)

State law reference—Dangerous wild animals, V.T.C.A., Health and Safety Code § 822.101 et seq.; subchapter of state law does not preempt municipal regulation or prohibition of dangerous wild animals, V.T.C.A., Health and Safety Code § 822.116(b).

Sec. 10-10. Releasing or abandoning of animals.

(a) *Violation to abandon*. It shall be a violation of this chapter for any person to abandon or release any animal upon any property, whether public or private, within the city. An animal shall be considered abandoned if the owner has not provided care, including food, air, water, or shelter, for three or more consecutive days, beginning on the day the animal was discovered not being provided care.

(b) *Person having knowledge of abandonment of animals*. Any person having knowledge of an animal that has been or is believed to have been abandoned or released shall so notify the director and shall provide all pertinent information, including a description and location of the animal and the name, address, car license number, or any other information or description of the person who released or abandoned the animal, if known.

(c) *Keeping, harboring, or feeding strays*. Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray animal or any animal that has been abandoned, to remain on the person's property for three or more days without notifying the city, shall hereby be deemed the owner of said animal.

(Code 1974, § 3-41; Code 1994, § 10-12; Code 2005, § 10-11; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-43), 1-7-2002)

Sec. 10-11. Public nuisances.

(a) *Failure to exercise proper care*. Every animal owner shall exercise proper care and control of such animal or animals, and the premises where they are kept, to prevent them from becoming a public nuisance.

(b) *Conditions constituting nuisances*. All of the following conditions, situations, or occurrences are hereby declared to be public nuisances and constitute failure of the owner to exercise proper care and control of his animal or animals and/or the premises where said animal or animals are or have been kept:

(1) Any animal which turns over garbage containers, scatters garbage, or otherwise damages private or public property;

(2) Any animal running at-large or roaming off of private property owned or controlled by the owner thereof;

(3) Any animal that barks, whines, howls, or makes other sounds or noises in an excessive, continuous, or untimely fashion; or

(4) Any building, room, cage, kennel, yard, run, or other place or facility where animals are kept or harbored that is not maintained in a clean and sanitary condition so as to prevent obnoxious odors; the attraction, breeding, or potential breeding of flies; the attraction, harboring, or breeding of rodents, or potential breeding of rodents; or the creation of any other public health nuisance.

(Code 1974, § 3-42; Code 1994, § 10-13; Code 2005, § 10-12; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-44), 1-7-2002)

Sec. 10-12. License and registration fees.

Any person required under section 10-74 to obtain a license for an animal, or any person required under section 10-122(f) to register a dangerous animal, shall obtain said license and/or registration from the director, or his authorized representative, and shall pay a license and/or registration fee as may be ~~adopted from time to time~~ set by resolution and printed in Appendix D to this Code ~~of the city council. Such fee schedule shall be on file in the offices of the city secretary and the director~~.

(Code 1974, § 3-21; Code 1994, § 10-14; Code 2005, § 10-13; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-21), 1-7-2002)

Sec. 10-13. Area designated as bird sanctuary.

The entire area embraced within the city limits is designated and declared a bird sanctuary.

(Code 1974, § 3-1; Code 1994, § 10-15; Code 2005, § 10-14)

Sec. 10-14. Birds protected; exceptions.

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wildfowl or to rob birds' nests or wildfowl nests; provided, however, if starlings or similar birds are found congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, such health authorities shall meet with representatives of the bird club, garden club, Audubon Society or humane society, or as many of such clubs as are found to exist in the city, after having given at least three days' actual notice of the time and place of the meeting to the representatives of such clubs. If as a result of such meeting no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such numbers and in such a manner as is deemed advisable by the health authorities under the supervision of the chief of police.

(Code 1974, § 3-2; Code 1994, § 10-16; Code 2005, § 10-15)

State law reference—Treatment of live birds, V.T.C.A., Health and Safety Code § 821.003.

Sec. 10-15. Livestock prohibited at large.

It shall be unlawful for the owner or controller of any cow, horse, mule, jack, jenny, hog, sheep or goat to allow or permit such animal to be at large within the city.

(Code 1974, § 3-3; Code 1994, § 10-17; Code 2005, § 10-16)

State law reference—Estrays, V.T.C.A., Agriculture Code § 142.001 et seq.; running at large on highways, V.T.C.A., Agriculture Code § 143.101 et seq.

Sec. 10-16. Animals running at-large prohibited.

(a) It shall be unlawful for any animal owned, kept or harbored to run at-large.

(b) The director of animal control, the animal control officer, or any peace officer is authorized to impound any animals running at-large.

(c) Dogs traveling in the backs of pickup trucks, open cab vehicles, and trailers, which are not covered with a camper cover, side board, or other such device, shall be considered at-large. Dogs traveling inside vehicles shall be restrained in a manner that will not cause injury to such animal and will prevent it from reaching the outside of the vehicle or trailer.

(Code 1974, § 3-29; Code 1994, § 10-18; Code 2005, § 10-17; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-29), 1-7-2002)

Sec. 10-17. Number of dogs, cats and large animals limited.

(a) *Private premises*. It shall be unlawful for any person to keep, harbor, own, maintain, or allow to be harbored, owned, or maintained more than a total of four dogs and~~or~~ cats, over three months of age, upon or within any premises owned, occupied, or under the control of such person within the city, except where specifically exempt in subsection (d) of this section.

(b) *Multiple dwellings*. It shall be unlawful for any person to keep, harbor, own, maintain, or allow to be kept, harbored, owned, or maintained more than a total of two dogs and ~~or~~ cats, over three months of age, upon any premises of or within any apartment of a multiple dwelling structure within the city.

(c) *Litters*. Only one litter from any animal permitted under subsections (a) and (b) of this section shall be allowed at any given time.

(d) *Exemptions*. The provisions of this section limiting the number of animals shall not apply to the following:

(1) Veterinary hospitals;

(2) Pet shops;

(3) Kennels;

(4) Circuses; or

(5) Animal shelters.

(e) *Total number allowed on property.* It shall be unlawful for any person to keep, harbor, own, maintain, or allow to be kept, harbored, owned, or maintained large domesticated animals, in greater than the following numbers: on tracts of land of less than two acres, provided that the total number of animals shall not exceed two per acre or 15 total, whichever is less; on tracts of land greater than five acres may not exceed two animals per acre. Further, all enclosures or other kennel facilities utilized pursuant to this subsection shall be located and constructed so as to protect adjacent property owners from the noise and air pollution.

(Code 1974, § 3-39; Code 1994, § 10-19; Code 2005, § 10-18; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-41), 1-7-2002)

Sec. 10-18. Defecation by animals.

It shall be unlawful for any person to fail to promptly remove and dispose of, in a sanitary manner, feces left by an animal being handled by that person on any property, public or private, other than the premises of the owner or handler of such animal. For the purposes hereof, the term "handler" shall mean the person having custody and control of such animal, whether by leash or by voice and sight. Further, it shall be unlawful for any person to walk an animal upon public property or upon the private property of someone other than the animal's owner or handler without having in their possession a container or other instrument suitable for removal and disposal of such animal's feces in a sanitary manner. However, this section shall not apply to handicapped persons using guide dogs or to peace officers using animals in the discharge of law enforcement activities.

(Code 1994, § 10-20; Code 2005, § 10-19; Ord. No. 92-11, § 1, 9-14-1992; Ord. No. 2001-25, § 1(3-45), 1-7-2002)

Sec. 10-19. Animals in parked vehicles.

(a) No dog or other animal shall be left in a closed parked vehicle in such a way as to subject the animal to extreme temperatures that could adversely affect the animal's health, safety or welfare.

(b) Any animal control officer, peace officer, or personnel of the fire department may use reasonable force to remove the animal from any vehicle if such person believes that an emergency situation exists due to the circumstances described in subsection (a) of this section.

(c) A person may not attempt to remove or use force to remove from a motor vehicle any animal in the custody of an animal control or peace officer.

(Code 1994, § 10-21; Code 2005, § 10-20; Ord. No. 2001-25, § 1(3-46), 1-7-2002)

Sec. 10-20. Equine infectious anemia (EIA).

Equine (horses, donkeys, mules, zebras, and burros) entering assemblies/events within the city shall have proof of a negative equine infectious anemia (EIA) test within the past 12-month period. An EIA test document, VS 10-11, is adequate proof of testing. The person or group in charge of any such event shall be responsible for ensuring that the equine are accompanied by such valid documentation and that the state equine event validation sheet (TAHC Form 96-38) has been completed.

(Code 1994, § 10-22; Code 2005, § 10-21; Ord. No. 2001-25, § 1(3-46[.1]), 1-7-2002)

Sec. 10-21. Miniature swine.

(a) The owner of miniature swine shall annually register the animal with the city. Written application for registration and the payment of applicable registration fees shall be made to the city's central cashier's office. The application shall include the name, ~~and~~ address and primary e-mail address of the owner, a description of the animal, and a copy of a current rabies vaccination certificate. Upon acceptance of the application, a city license tag shall be issued, which shall bear an identifying number for the animal and the year of issuance.

(b) Miniature swine may be kept as pets within the city, subject to the following requirements:

(1) It shall be unlawful to keep, own, or possess more than one swine per household or business.

(2) It shall be unlawful for any person to keep or maintain miniature swine in an outdoor enclosure. A person may allow miniature swine outdoors for brief periods not to exceed one hour per occurrence, as necessary, for exercise or for the elimination of waste. The outdoor area used for exercise and waste elimination must be a secure area from which the swine may not escape. Miniature swine are subject to all the other sections of this chapter, including the prohibition of animals running at-large.

(3) It shall be unlawful for any person to keep or maintain miniature swine within the city, unless the swine have received annual vaccinations against erysipelas, parvo virus, and leptospirosis. The first inoculations for such diseases must be received before the animal is four months of age. Upon request, the owner of miniature swine must provide the animal control officer with a health certificate from a licensed veterinarian within 14 days of vaccination, which shall contain the following information:

a. Name, address, primary e-mail address, driver's license number, and telephone number of the owner;

b. Name, address, primary e-mail address and telephone number of the licensed veterinarian providing the vaccinations and certificate;

c. Name, a recent photograph, and the description of the animal, including age, weight, and height;

d. The types and dates of vaccinations;

e. A statement of the general health of the animal; and

f. Certification that the animal has been either sprayed or neutered.

(4) It shall be unlawful for any person who owns, keeps, harbors, or has custody of any miniature swine to fail to display on such animal, at all times, a valid city registration and vaccination tag.

(5) It shall be unlawful for any person who owns, keeps, harbors, or has custody of any miniature swine to display on such miniature swine a registration or vaccination tag issued to another animal.

(6) All locations where miniature swine are maintained shall be kept in a clean and sanitary condition.

(c) If the owner of a miniature swine fails or refuses to comply with any of the requirements of this section, the animal control officer may deny or revoke the animal's registration and order the miniature swine removed from the city. The determination of the animal control officer may be appealed by the owner of the miniature swine to the municipal court.

(Code 1994, § 10-23; Code 2005, § 10-22; Ord. No. 2001-25, § 1(3-47), 1-7-2002)

Secs. 10-22--10-49. Reserved.

ARTICLE II. DOGS AND CATS*

***State law reference**—Registration and restraint of dogs and cats, V.T.C.A., Health and Safety Code § 826.031 et seq.

DIVISION 1. GENERALLY

Sec. 10-50. Dogs in heat.

~~The owner of a bitch dog in heat is in violation of this chapter if such dog is at-large. Such~~ Bitches in heat shall be securely confined by the owner to the premises of the owner in such a manner as to not create or cause to be created a nuisance of any kind to any person.

(Code 1974, § 3-31; Code 1994, § 10-41; Code 2005, § 10-50; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-33), 1-7-2002)

Secs. 10-51--10-73. Reserved.

DIVISION 2. LICENSE

Sec. 10-74. Required.

Every person owning, harboring, or having in his possession any dog or cat is hereby required to obtain from the licensing authority an annual license for each such dog or cat, which must initially be obtained within seven days following the rabies vaccination required herein, and annually thereafter. It shall be unlawful for any person to own, harbor, or have in his possession within the city a dog or cat for which a current valid license has not been obtained as provided herein.

(Code 1974, § 3-20(a); Code 1994, § 10-56; Code 2005, § 10-74; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(a)), 1-7-2002; Ord. No. 2003-10, § 1, 7-21-2003)

Sec. 10-75. Exceptions.

The licensing provisions of this article shall not apply to dogs or cats that are:

(1) Under the age of four months, if kept confined.

(2) Owned by, or in custody or under the control of, persons who are not residents of the city, but are only traveling through or temporarily sojourning therein, for a period not to exceed 30 days.

(3) Brought into the city exclusively for the purpose of participating in any show or exhibition and actually entered in and kept at such show or exhibition.

(4) Duly and properly trained to aid or assist blind persons when such dogs are actually used for the purpose of aiding or assisting such persons in going from place to place.

(5) Duly and properly trained to aid or assist deaf persons when such dogs are actually used for the purpose of aiding or assisting such persons in going from place to place.

(6) Kept in qualified institutions, approved by the director, for teaching or research purposes.

(7) Kept in veterinary hospitals or animal shelters.

(Code 1974, § 3-20(h); Code 1994, § 10-57; Code 2005, § 10-75; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(h)), 1-7-2002)

Sec. 10-76. Proof of vaccination.

A license for any dog or cat shall not be issued unless the owner thereof presents to the licensing authority a certificate from a licensed veterinarian showing that such animal has been administered the approved rabies vaccine as provided herein.

(Code 1974, § 3-20(b); Code 1994, § 10-58; Code 2005, § 10-76; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(b)), 1-7-2002)

Sec. 10-77. Valid period.

Such license and registration required by section 10-74 and section 10-122(f) hereof shall be valid for a period not to exceed one year, beginning on the month and day the rabies vaccination certificate was issued.

(Code 1974, § 3-20(c); Code 1994, § 10-59; Code 2005, § 10-77; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(c)), 1-7-2002; Ord. No. 2003-10, § 2, 7-21-2003)

Sec. 10-78. Animals brought into city.

The owner of a dog or cat that is brought into the city from another area shall, within seven days of arrival, obtain a license for each dog or cat as required herein. Said license shall be valid for the period stated in section 10-77, but under no condition shall such license be valid for longer than one year from the date of the animal's last rabies vaccination.

(Code 1974, § 3-20(d); Code 1994, § 10-60; Code 2005, § 10-78; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(d)), 1-7-2002)

Sec. 10-79. Identification tags.

(a) *Tags required*. Upon acceptance of the license application or rabies vaccination certificate, and payment of a license fee, the licensing authority shall issue a durable tag, stamped with an identification number and the year of issuance. The tag and/or the receipt for payment of said license tag shall be presented to the licensing authority upon request. Failure to present such license tag or receipt for said tag shall constitute a violation of this article.

(b) *Tags attached*. The owner of every dog or cat shall attach the city's license identification tag to a collar or harness and said dog or cat shall wear the collar or harness at all times when off the premises of the owner. Tags may not be switched from one animal to another.

(c) *Lost tags*. The licensing authority shall maintain a record of the identification numbers of all tags issued and this record shall be available to the public. If a license tag has been lost, a duplicate tag may be obtained from the licensing authority for a fee as may be ~~adopted from time to time~~ set by resolution and printed in Appendix D to this Code ~~of the city council~~.

(Code 1974, § 3-20(e)--(g); Code 1994, § 10-61; Code 2005, § 10-79; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(e)--(g)), 1-7-2002)

Secs. 10-80--10-101. Reserved.

DIVISION 3. RABIES IMMUNIZATION*

***State law reference—**Vaccination of dogs and cats required, V.T.C.A., Health and Safety Code § 826.021~~016~~; vaccination requirement, 25 Tex. Admin. Code § 169.29.

Sec. 10-102. Vaccination required.

Each person owning, harboring, or having in his possession a dog or cat shall have such animal vaccinated against rabies, by the time such is animal is four months of age, by means of an anti-rabies vaccine approved by the TDH, and administered by a duly licensed veterinarian. Each person owning, harboring, or having in his possession a dog or cat that has been vaccinated against rabies by the age of four months shall have the animal given a rabies booster within the 12-month interval following the initial vaccination, by means of an antirabies booster approved by the TDH, and administered by a duly licensed veterinarian. Each person owning, harboring, or having in his possession a dog or cat shall have such animal revaccinated against rabies at a minimum of at least once every three years with a rabies vaccine licensed by the United States Department of Agriculture. The vaccine must be administered by a duly licensed veterinarian in accordance with label recommendations.

(Code 1974, § 3-18(a); Code 1994, § 10-71; Code 2005, § 10-102; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-18(a)), 1-7-2002; Ord. No. 2003-10, § 3, 7-21-2003)

Sec. 10-103. Certificate of vaccination.

Any veterinarian who vaccinates any animal within the city shall issue a certificate of vaccination to the owner thereof, stating the name and address of the owner, the description of the animal, the date of vaccination, the identification number of the rabies vaccination tag, and, in

addition, any other information specified by the veterinary licensing agency to be presented to the director upon request.

(Code 1974, § 3-18(b); Code 1994, § 10-72; Code 2005, § 10-103; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-18(b)), 1-7-2002)

Sec. 10-104. Vaccine.

(a) *Vaccination*. To prevent improper vaccination of animals and the accidental exposure of humans to rabies, rabies vaccine for animals shall be administered only by, or under the direct supervision of, a veterinarian licensed to practice in the state, and in accordance with the recommendation of the manufacturer.

(b) *Sale of vaccine*. No person shall sell or distribute rabies vaccine for animals to any person, except a licensed veterinarian or a person working in a veterinary clinic who accepts the vaccine on behalf of the veterinarian.

(c) *Licensed pharmacy*. This article does not prohibit a pharmacy licensed by the state board of pharmacy from supplying rabies vaccine for animals to licensed veterinarians.

(Code 1974, § 3-19; Code 1994, § 10-73; Code 2005, § 10-104; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-19), 1-7-2002)

Secs. 10-105--10-121. Reserved.

ARTICLE III. DANGEROUS AND VICIOUS ANIMALS*

***State law reference**—Dangerous dogs, V.T.C.A., Health and Safety Code § 822.041 et seq.; subchapter of state law does not preempt municipal regulation or prohibition of dangerous wild animals, V.T.C.A., Health and Safety Code § 822.116(b); local regulation of dangerous dogs, non-breed specific, V.T.C.A., Health and Safety Code § 822.047.

Sec. 10-122. Dangerous animals.

(a) *Definitions*. For the purposes of this article, the definitions of "dangerous animal" and "wild animal" contained in section 10-3 shall be used.

(b) *Declaration of a dangerous animal*. The director may find and declare an animal to be a dangerous animal as defined herein.

(c) *Notification of declaration of a dangerous animal*. The director shall notify the owner of an animal of its designation as dangerous and the city's requirements for owners of dangerous animals as set out in subsection (g) of this section. The notice required herein shall be served as stated in section 10-169.

(d) *Hearing request*. If an animal is declared to be dangerous under this article, the notice shall inform the owner of the animal that a determination hearing may be requested to contest such declaration. The request for a hearing must be in writing and must be received by the director within ten days of the date of service of such declaration. If such request is not received within the ten-day period, the director's declaration shall become final.

(e) *Defense to declaration of dangerous animal*. It is a defense to the determination that an animal is dangerous, and to the prosecution of the owner of an animal declared to be dangerous, if:

(1) The victim injured, bitten, or in fear of injury was teasing, tormenting, abusing, or assaulting the animal or has, in the past, teased, tormented, abused, or assaulted the animal;

(2) The person injured, bitten, or fear of injury was committing or attempting to commit a crime;

(3) A domestic animal is injured or killed and was, at the time, teasing, tormenting, abusing, or assaulting the animal;

(4) Such animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault;

(5) The animal was injured and responding to pain; or

(6) The animal was protecting its offspring, itself, or its kennelmates.

(f) *Dangerous animal registration required*. The owner of an animal declared dangerous under this article shall, within ten days of the date of the final dangerous animal declaration, register the animal with the city.

(1) The owner shall notify the director, as soon as reasonably possible, upon discovery that a dangerous animal is loose, has been stolen, is unconfined in an approved enclosure, has attacked another animal or a person, or has died.

(2) If the owner of a dangerous animal relocates, sells, or gives away a dangerous animal, the owner shall provide the director with the name, address, and telephone number of the new owner or the location of the new enclosure, if located within the corporate limits of the city. A new owner of a dangerous animal within the city must sign a sworn statement that he will comply with all of the city's requirements for owners of dangerous animals and shall comply with said requirements within 30 days of such acquisition.

(g) *Requirements of dangerous animal owners*.

(1) Upon final determination that an animal is dangerous, the owner thereof shall:

a. As soon as is reasonably possible, but not more than 24 hours after such determination, cause such dangerous animal to be placed and kept in a proper enclosure, except as otherwise specifically permitted herein;

b. Within 60 days of such determination, present to the city a certificate of public liability insurance in the amount of $100,000.00 to cover any damages which may be caused by the animal. The insurance shall be for a 12-month period, shall not be cancelled unless the animal is no longer kept by the owner, and shall provide not less than 30 days written notice to the city of any cancellation thereof;

c. Securely muzzle such dangerous animal when taken outside the enclosure, in a manner that will not cause injury to such animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal. The dangerous animal must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and shall not exceed six feet in length;

d. Within ten days, post a sign on the premises warning that there is a dangerous animal on the property. Such sign shall be visible and capable of being read from any public street or highway adjacent to the property where the dangerous animal is located, and from any adjacent private property;

e. Within 30 days, display, immediately below each sign described in subsection (g)(1)d of this section, a symbol warning of the presence of the dangerous animal. The director shall approve the size and design of such symbol;

f. Within 30 days, cause the dangerous animal to be spayed or neutered; and

g. Within 30 days, cause the animal to wear, at all times, a fluorescent orange collar or harness of such size and color intensity so as to be visible at a distance of not less than 50 feet, by a person of ordinary vision.

(2) If the owner of an animal declared to be dangerous fails to comply with the ownership requirements listed above within the stated periods, such animal shall be destroyed as provided in section 10-124. Any animal declared to be dangerous shall not be offered for adoption or sale and shall not be removed from its approved enclosure or the city without prior written notification thereof to the city.

(h) *Dangerous animal at-large*. Any dangerous animal found at-large, after the owner thereof has been issued notice that such animal is dangerous, may be destroyed by any animal control or peace officer, without the officer having to catch or impound such animal or notify its owner.

(i) *License revocation of dangerous animal*. The director may, after providing the opportunity for and holding the requested hearing, revoke the license for any animal whose owner has been notified that the animal has been conclusively presumed to be dangerous, if said animal:

(1) Is not confined or is found running at-large;

(2) Is not muzzled as required herein;

(3) Bites or attempts to bite any person or chases or otherwise attempts to catch a person;

(4) Attacks or attempts to attack any other animal in violation of any section or part of this article;

(5) Is owned by a person who has been convicted of violation of any federal, state, or local law, article, or rule pertaining to said animal;

(6) Is dangerous and its owner fails to maintain insurance coverage in the manner and in the amounts set forth in subsection (g)(1)b of this section;

(7) Is dangerous and its owner does not register such animal as required in subsection (f) of this section; or

(8) Is dangerous and its owner does not build, obtain, or provide an enclosure and confine said animal within said enclosure within 30 days of such notification.

(j) *Exemptions*. The provisions of this section shall not apply to any law enforcement agency when a dog is being used for law enforcement purposes.

(Code 1994, § 10-96; Code 2005, § 10-122; Ord. No. 2001-25, § 1(3-30), 1-7-2002)

Sec. 10-123. Vicious animal.

(a) The municipal court of the city shall order the director to seize a vicious animal and shall issue a warrant authorizing such seizure on the sworn complaint of any person, including the city prosecutor, the director, an animal control officer, or a peace officer that the animal has caused the death of, or serious bodily injury to, a victim by attacking, biting, or mauling the victim and on a showing of probable cause to believe that the animal caused the death of or serious bodily injury to the victim as stated in the complaint.

(b) The director shall seize the vicious animal or order its seizure and shall provide for the impoundment of the animal in a secure and humane environment until the court orders the disposition of the animal.

(c) The municipal court shall set a time for a hearing to determine if the vicious animal caused the death or serious bodily injury by attacking, biting, or mauling the victim. Such hearing must be held not later than the tenth day after the date on which the warrant is issued. The municipal court shall give written notice of the time and place of the hearing to the owner of the animal or person from whom the dog was seized and the person who made the complaint. Any interested party, including the city prosecutor, the director, an animal control officer, or a peace officer, may present evidence at the hearing.

(1) If the court finds that the animal has caused a death by attacking, biting, or mauling a victim, the municipal court shall order the vicious animal destroyed. If such a finding is not made, the court shall order the animal released to its owner, the person from whom the animal was seized, or any other person authorized to take possession of the animal.

(2) If the court finds that the animal caused serious bodily injury to a victim by attacking, biting, or mauling a victim, the municipal court may order the vicious animal destroyed. If such a finding is not made, the court shall order the animal released to its owner, the person from whom the animal was seized, or any other person authorized to take possession of the animal.

(3) The municipal court may not order the vicious animal destroyed if the court finds that:

a. The animal caused serious bodily injury to a victim and the animal was being used for and was acting in protection of a person or person's property;

b. The attack, biting, or mauling occurred in an enclosure in which the animal was being kept, the enclosure was reasonably certain to prevent the animal from leaving the enclosure on its own, it provided notice of the presence of an animal, and the injured victim was at least eight years old and was trespassing in the enclosure when the attack, biting, or mauling occurred;

c. The animal was not being used for protection of a person or person's property;

d. The attack, biting, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

e. The animal was defending a person from an assault or person's property from damage or theft by the injured victim; or

f. The injured victim was younger than eight years old, the attack, biting, or mauling occurred in an enclosure in which the animal was being kept, and the enclosure was reasonably certain to keep a person younger than eight years old from entering.

(d) The destruction of an animal under this article shall be performed only by licensed veterinarians, employees of a recognized animal shelter or humane society, or employees of a government agency responsible for animal control and trained in the humane destruction of animals.

(Code 1994, § 10-97; Code 2005, § 10-123; Ord. No. 2001-25, § 1(3-31), 1-7-2002)

Sec. 10-124. Authority to destroy.

Any animal may be destroyed by an animal control officer or peace officer, in the interest of public safety, when such animal is found attacking, biting, or mauling victims at-large.

(Code 1994, § 10-98; Code 2005, § 10-124; Ord. No. 2001-25, § 1(3-32), 1-7-2002)

Secs. 10-125--10-146. Reserved.

ARTICLE IV. RABIES CONTROL*

***State law reference**—Rabies control, V.T.C.A., Health and Safety Code § 826.001 et seq.; municipality may establish local rabies control program, V.T.C.A., Health and Safety Code § 826.015; designation of local rabies control authority, V.T.C.A., Health and Safety Code § 826.017; disposition of domestic animals exposed to rabies, 25 Tex. Admin. Code § 169.30; report of potential human exposure to rabies, 25 Tex. Admin. Code § 169.25; quarantine method and testing, 25 Tex. Admin. Code § 169.27.

Sec. 10-147. Definitions.

Unless otherwise defined in this article, the definitions as stated in the current or latest rabies control and eradication rules of the state department of health shall apply in the interpretation of this article.

(Code 1974, § 3-17; Code 1994, § 10-131; Code 2005, § 10-147)

Sec. 10-148. Report of animal attacks.

Any person having knowledge of an animal bite, scratch, or other attack on a person or another animal, and the person suspects such animal is rabid, shall immediately report the incident to the animal control officer. The report shall include the name, ~~and~~ address, and primary e-mail address of any victim and the owner of the animal, if known, and any other data that may aid in locating the victim or the animal. The person shall make said report as soon as possible, but not later than 24 hours from the time of the incident.

(Code 1974, § 3-32; Code 1994, § 10-132; Code 2005, § 10-148; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-34), 1-7-2002)

Sec. 10-149. Disposal of animals with rabies, etc.

It is hereby made the duty of the chief of police, any peace officer, or an animal control officer to destroy any animal at-large when said animal is, or reasonably appears to be, infected with rabies, or any other infectious, contagious, or dangerous disease or when an animal is attacking, or when such animal appears to be sick, injured, or in such other condition as it may not be expected to live; provided, however, any animal suspected of having rabies shall be killed in such a manner as not to damage the brain. The officer who destroys such animal shall, before disposing of same, report such incident to the director, who shall determine the manner of disposal of the carcass, and said officer shall further submit a written report to the director containing the facts thereof. The director shall attempt to notify the owner, if known or ascertainable from the animal's license tag, if any, of such destruction, prior to disposal, which notice shall also include the director's proposed plan of disposal.

(Code 1974, § 3-33; Code 1994, § 10-133; Code 2005, § 10-149; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-35), 1-7-2002)

Sec. 10-150. Quarantining of suspected animals with rabies.

(a) *Approved shelter*. Any animal that has rabies or the symptoms thereof, or that bites, scratches, or otherwise attacks any person within the city shall be quarantined by the owner of said animal. The owner shall quarantine the animal as soon as possible, but not later than 24 hours from the time of the incident. The quarantine period shall be ten days or longer in a public or other place of confinement designated or approved by the TDH or under such conditions and in such a manner as may be prescribed by the TDH. It shall be a violation of this article for the owner or any other person to remove any animal from the jurisdiction of the city, if such animal is required to be quarantined or euthanized, or is otherwise in violation of this article, without the written consent of the director.

(b) *Release of animal to director*. The owner or person in charge of any animal that has rabies, has been exposed to rabies, or has the symptoms thereof, or that has bitten, scratched, or otherwise attacked any person or other animal, or that is quarantined as a rabies suspect, shall, upon demand, turn over said animal to the director.

(c) *Unknown animal*. At the discretion of the director, an unknown animal, which has bitten a human, may be humanely destroyed in such a manner that the brain is not damaged. The brain shall be submitted to a TDH-certified laboratory for rabies diagnosis.

(d) *High-risk animals*. If the biting animal is a high-risk animal, it shall be humanely destroyed and the brain submitted for rabies testing.

(e) *Low-risk animals*. If the biting animal is a low-risk animal, a quarantine or rabies test will not be required, unless the director has cause to believe such animal is rabid.

(f) *Wild animals*. No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely destroyed in such a manner that the brain is not damaged. The brain shall be submitted to a TDH-certified laboratory for rabies diagnosis.

(g) *Exceptions*.

(1) Any animal inflicting a serious bodily injury to an individual shall be humanely killed and the brain tested for rabies. An animal control officer may grant an exception to this requirement, provided the following criteria are met:

a. The biting animal is a domestic dog or cat;

b. The owner has a current rabies vaccination certificate; and

c. The animal was not in violation of any law at the time of the bite.

(2) If an exception is granted, the dog or cat shall be quarantined in accordance with this article.

(h) *Head submitted; quarantine*. If the biting animal is not a dog or cat or is not included in subsection (c), (d), (e), or (f) of this section, such animal will be humanely destroyed and the brain tested for rabies, or the director may require the animal to be quarantined for 30 days as an alternative to destroying and testing.

(i) *Home quarantine*. In lieu of animal quarantine at an animal shelter or other quarters, the animal control officer may authorize the animal to be retained on the owner's premises, if the following requirements are satisfied:

(1) The animal was currently vaccinated at the time of the bite;

(2) The animal was not running at-large at the time of the bite;

(3) The animal was registered with the city at the time of the bite;

(4) When quarantined at home, the animal must be restrained and removed to an area where it will not come in contact with any person or other animal;

(5) The animal must be made available to the animal control officer for periodic inspections;

(6) The owner will observe the animal for any signs of illness or personality changes and report such changes to the animal control officer;

(7) The animal may not be moved from the known quarantine location without prior notification and approval by the animal control officer;

(8) The animal will remain under quarantine until the owner is notified by telephone, personal service, or certified mail that the final health inspection has been made and that the animal control officer has cleared the animal;

(9) The animal may not receive a vaccination for rabies during the quarantine period, except as provided herein; and

(10) Failure to comply with all conditions of home quarantine as stated above or as directed by the animal control officer will result in the animal being impounded at the animal shelter for the duration of the quarantine period.

(j) *Submittal to laboratory*. Any animal ordered to be quarantined that cannot be maintained or placed in secure quarantine shall be humanely destroyed and the brain submitted to a TDH-certified laboratory for rabies diagnosis.

(k) *Fees and cost*. Transportation, capture, laboratory, veterinarian, impoundment, quarantine, euthanasia, disposal, and any and all other fees, costs, charges, and duties shall be the direct responsibility of the animal owner or custodian. Failure of the owner to pay such costs and fees shall constitute a violation of this article and the penalties provided herein shall be assessed against said owner.

(l) *Release or removal from quarantine prohibited*. No animal shall be released or moved from the place of approved confinement, except by the director, until after the ten-day quarantine period and then only after inspection of the animal has been made and its release approved by the director.

(m) *Vaccination of quarantined animals*. No animal confined or quarantined as a rabies suspect as required herein shall be given a rabies vaccination until after the ten-day quarantine period. All unvaccinated animals shall then be vaccinated.

(n) *Rabies suspected*. If a quarantined animal is found to be rabid or, if in the opinion of the director or a veterinarian, is suspected of being rabid, the director shall humanely destroy the animal or cause the animal to be humanely destroyed and the brain submitted to a TDH-certified laboratory for rabies diagnosis.

(o) *Interfering with enforcement*. It shall be unlawful for any person to interfere with the enforcement of this section or fail or refuse to surrender, to the director or an animal control officer any animal, involved or suspected of being involved in a bite case, or otherwise fail or refuse to provide for the quarantine of animals as may be authorized by this article.

(p) *Warrant to seize the animal*. If an owner fails or refuses to surrender an animal to the director or animal control officers for quarantine under this article, the director or such animal control officer may apply to any judge of the municipal court of the city for a warrant to seize the animal. The officer executing the warrant shall cause the animal to be impounded at an animal shelter.

(Code 1974, § 3-34; Code 1994, § 10-134; Code 2005, § 10-150; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-36), 1-7-2002)

Secs. 10-151--10-168. Reserved.

ARTICLE V. IMPOUNDMENT*

***State law reference**—Quarantine and impoundment, V.T.C.A., Health and Safety Code § 826.041 et seq.; disposition of domestic animals exposed to rabies, 25 Tex. Admin. Code § 169.30.

Sec. 10-169. Notice.

As soon as possible after an animal has been delivered to or picked up by an animal control officer and taken to impoundment, a record of said pickup shall be made by such officer. Such record shall include a description of the animal, the identification number of any rabies or license tag on such animal, and the name of the person to whom the animal is registered. If the animal bears a license tag, the director shall notify the person to whom such license tag was issued. The owner of said animal may be notified in person, by telephone, or by written notice left at or mailed to his last known address. The owner shall be deemed notified upon the mailing or leaving of said written notice, whether the owner receives the notice or not.

(Code 1974, § 3-35; Code 1994, § 10-156; Code 2005, § 10-169; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-37), 1-7-2002)

Sec. 10-170. Release of quarantined and impounded animals.

If a quarantined or impounded animal is found to be free from rabies or other infectious or contagious diseases, the director shall release it to the owner following the quarantine or impoundment period as specified in this article if:

(1) The owner pays the impoundment fees for each animal so retrieved, in addition to any tax or fine. No wild or exotic animals shall be released, except to persons who qualify and comply with the requirements of this article;

(2) The owner redeems his animal within five days, if such animal is licensed and wearing a license tag, or within 72 hours if such animal is not licensed or is not wearing a license tag, following notice of capture and/or impoundment;

(3) The owner of the animal has a current rabies vaccination certificate and license for the animal;

(4) The animal is vaccinated against rabies by a licensed veterinarian at the owner's expense and a license for the animal is issued;

(5) The owner presents proper identification and proof of ownership; and

(6) All fees, costs, or charges incurred have been paid by the owner of the animal.

(Code 1974, § 3-36; Code 1994, § 10-157; Code 2005, § 10-170; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-38), 1-7-2002)

Sec. 10-171. Disposal of quarantined and impounded animals.

(a) *Owner fails to claim*. The director may sell, for nonexperimental or research purposes, and retain the proceeds, keep, grant, or humanely destroy, under the circumstances, any animal whose owner or custodian does not take possession thereof, as provided in section 10-172, on or before the third day following the final day of quarantine or on or before the third day following notice of impoundment.

(b) *Sick or injured animals*. It is expressly provided that, in the case of diseased, sick, injured, or otherwise unhealthy animals impounded under these regulations, other than those affected or thought to be affected by rabies, it shall be unnecessary to await the expiration of the impoundment or retrieval period before disposing of such animals if, under the circumstances, the director determines that it would be inhumane to fail to dispose of any such animal.

(Code 1974, § 3-37; Code 1994, § 10-158; Code 2005, § 10-171; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-39), 1-7-2002)

Sec. 10-172. Disposal of carcasses.

(a) *Disposal method*. All animals shall be disposed of in such place and in such manner as may be designated or prescribed by the TDH and the director.

(b) *Person responsible*. The owner or person having control or charge of any animal before or at the time of the animal's death shall be totally responsible for the disposal of the animal carcass and shall contact the city for direction in such disposal.

(c) *Fee, cost, or charges*. All fees, costs, or charges incurred in the disposal of the animal carcass shall be the responsibility of the animal owner or person having charge or control of said animal at the time of or prior to the animal's death.

(d) *Disposal within 48 hours*. The carcasses of all animals shall be properly disposed of in accordance with the provisions of this article as soon as possible, but under no circumstances later than 48 hours after death.

(e) *Owner not identified*. If the owner of the dead animal cannot be identified, the property owner or the person having charge or control of the property where the carcass is located shall be responsible for the carcass disposal and is subject to all provisions contained herein. If the owner of the animal is located or identified after carcass disposal has been effected, said owner shall reimburse the property owner or person disposing of the carcass and shall be subject to all costs, conditions, and penalties contained in this article.

(Code 1974, § 3-38; Code 1994, § 10-159; Code 2005, § 10-172; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-40), 1-7-2002)

Secs. 10-173--10-197. Reserved.

ARTICLE VI. ANIMAL ESTABLISHMENTS

Sec. 10-198. Permits required.

(a) *Valid permit required*. Any person conducting, managing, owning, or maintaining an animal establishment, a kennel, pet shop, riding stable, auction, zoological park, circus, performing exhibition, or grooming shop, within the city, must display a valid permit for said establishment.

(b) *Permit fees*. Any person conducting, managing, owning, or maintaining an animal establishment within the city shall obtain a permit to do so from the director and pay a permit fee as may be ~~adopted from time to time~~ set by resolution and printed in Appendix D to this Code ~~of the city council~~.

(c) *Each facility separate*. Each and every facility regulated by this article and listed in subsection (a) of this section shall be considered a separate enterprise and shall require an individual permit.

(d) *Construction plans*. All plans for construction of animal establishments shall be submitted to and approved by the city before any building permit is issued or any construction is begun. Submission of plans and compliance with the provisions of this article shall be the responsibility of the owner.

(e) *Separation from residence*. No animal establishment shall be operated within the confines of a residential structure, unless that portion used for the animal establishment can be operated separately, with ingress and egress thereto completely independent from any portion of the structure used for residential purposes.

(f) *Exceptions*. No fee shall be required of any veterinary hospital, animal shelter, or government-operated zoological park or institution approved by the director for teaching or research purposes.

(g) *Application for permit*. Any person desiring to construct or operate an animal establishment listed in subsection (a) of this section shall make written application for a permit on forms provided by the city.

(h) *Plans inspected*. Prior to approval of an application for a permit, the director shall inspect the plans and specifications of the proposed establishment to determine compliance with this article and the city's "Construction Standards for Animal Establishments," as well as the city's subdivision and zoning regulations.

(i) *Equipment requirements*. All animal establishments must comply with any equipment and facility requirements as may be adopted from time to time by the city.

(j) *Validation period*. The director shall issue a permit to the applicant, if the director's final inspection reveals that the said animal establishment complies with the requirements of

subsection (h) of this section. Each permit issued under the provisions of this article shall be valid for a period beginning January 1 and, regardless of the date issued, will expire December 31.

(k) *Inspections*. It shall be a condition for issuance of any permit or license that the director shall be allowed to inspect all animals, and the premises where the animals are kept, at any reasonable time and shall, if permission for such inspection is refused, suspend and/or revoke the permit or license of the refusing owner. It shall be unlawful for any owner to deny access to the director, or his duly authorized representative, for the purpose of conducting inspections.

(l) *Animal cruelty*. A person who is or has been convicted of cruelty to an animal shall not be issued or allowed to hold a permit to operate an animal establishment as listed in subsection (a) of this section.

(Code 1974, § 3-22; Code 1994, § 10-181; Code 2005, § 10-198; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-22), 1-7-2002)

State law reference—Seizure of cruelly treated animals, V.T.C.A., Health and Safety Code § 821.022.

Sec. 10-199. Collection of fees.

(a) *Fees prerequisite*. All permit and license fees shall be paid to and collected by the city before any permit or license will be issued. Certified checks, cashier's checks, personal checks, or money orders for such fees shall be mailed or delivered in person to the City of Friendswood, 910 South Friendswood Drive, Friendswood, Texas 77546-3898, and shall be made payable to the city.

(b) *Accounting*. The director shall keep a current and accurate accounting of all permit and license fees and other monies collected, the name of all persons upon whose account the same was paid, the date, the amount thereof, and the purpose for which the fee was paid.

(Code 1974, § 3-23; Code 1994, § 10-182; Code 2005, § 10-199; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-23), 1-7-2002)

Sec. 10-200. Suspension of permit.

(a) *Failure to comply*. The director may suspend any animal establishment permit listed in section ~~10-181~~ 10-198(a), at any time, for failure of the permit holder to keep his establishment and/or premises in a sanitary condition. A permit may also be suspended for willful or repeated violation of any of the requirements of this article or of any federal, state or local law or any other article or rule governing the protection and keeping of animals.

(b) *Hearing request*. Whenever a permit is suspended, the holder of such permit or the person in charge shall be notified in writing that the permit is, upon service of such notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for such hearing is filed by the permit holder with the director within ten days. If no such request is filed within said ten-day period, the suspension shall be sustained. The director may end the suspension at any time if the reason for such suspension no longer exists.

(Code 1974, § 3-24; Code 1994, § 10-183; Code 2005, § 10-200; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-24), 1-7-2002)

Sec. 10-201. Revocation of permit or license.

(a) *Failure to comply*. The director may, after providing opportunity for a hearing, revoke a permit or license for serious, willful, or repeated violation of any of the requirements of this article or any federal, state, or local law or any other ordinance, or for interference with the director in the performance of his duties. Two or more convictions within a 12-month period shall constitute repeated violations. The director may suspend, revoke, or withhold a permit or license if the applicant withholds, falsifies, or misrepresents any information provided on the application form.

(b) *Hearing request*. Prior to such revocation, the director shall notify the holder of the permit or license, or the person in charge, in writing, of the reason the permit or license is subject to revocation, and that the permit or license shall be revoked upon expiration of ten days following the date of service of such notice, unless a written request for a hearing is filed by the holder of the permit or license with the director within such ten-day period. If no request for such hearing is filed within said ten-day period, the revocation of the permit or license shall become final. No portion of a permit or license fee shall be refunded upon revocation thereof pursuant to this section.

(c) *Service of notice*. A notice provided for in this article is properly served when it is delivered in person to the holder of the permit or license or the person in charge, or when it is sent by certified mail, return receipt requested, to the last known address of the holder of the permit or license, regardless of whether the letter is or is not received by the holder of the permit or license.

(Code 1974, § 3-25; Code 1994, § 10-184; Code 2005, § 10-201; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-25), 1-7-2002)

Sec. 10-202. Hearings.

The director shall conduct public hearings as provided in this article at a time and place designated by him. Based upon the evidence provided at such hearing, the director shall make a final determination and shall sustain, modify, or rescind any notice or order considered in such hearing.

(Code 1974, § 3-26; Code 1994, § 10-185; Code 2005, § 10-202; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-26), 1-7-2002)

Sec. 10-203. Disposition of animals after revocation.

Any person whose permit or license is revoked shall, within ten days after revocation:

(1) Humanely dispose of all animals owned, kept, or harbored by such person;

(2) Relocate all animals to areas or places outside the corporate boundaries of the city; or

(3) Release all animals to the director and pay all costs incurred in the handling of said animals thereafter, such as transporting, housing, feeding and/or disposal.

(Code 1974, § 3-27; Code 1994, § 10-186; Code 2005, § 10-203; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-27), 1-7-2002)

Sec. 10-204. Application after revocation.

Whenever a revocation has become final, the person whose permit or license has been revoked may not apply for or receive a new permit or license for a period of one year from the date of such revocation. One year after the date of any such revocation, the person may reapply for a permit or license and shall include with the application, verification that all reasons and conditions that led to such revocation have been corrected. Any person reapplying for a permit or license under this section shall be subject to all the requirements of this article. Any person having a permit or license revoked for a second time shall not be eligible for a new permit or license.

(Code 1974, § 3-28; Code 1994, § 10-187; Code 2005, § 10-204; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-28), 1-7-2002)

Secs. 10-205--10-220. Reserved.

ARTICLE VII. ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 10-221. Creation of committee and purpose.

There is hereby created an animal shelter advisory committee to assist the city in complying with V.T.C.A., Health and Safety Code ch. 823, as such may be amended thereafter.

(Code 2005, § 10-205; Ord. No. 2010-09, § 1, 4-5-2010)

Sec. 10-222. Composition of committee.

The animal shelter advisory committee shall be composed of at least one licensed veterinarian, one municipal official, one person whose duties include the daily operation of an animal shelter, and one representative from an animal welfare organization. Members of the committee shall be appointed by and serve at the pleasure of the city council.

(Code 2005, § 10-206; Ord. No. 2010-09, § 1, 4-5-2010)

Sec. 10-223. Committee requirements.

The animal shelter advisory committee shall meet at least three times annually and by March 1 of each year produce an annual report to the city council for review.

(Code 2005, § 10-207; Ord. No. 2010-09, § 1, 4-5-2010)

Sec. 10-224. Rule of procedure.

The animal shelter advisory committee shall adopt its own rules of procedure.

(Code 2005, § 10-208; Ord. No. 2010-09, § 1, 4-5-2010)

Chapters 11--13

RESERVED

Chapter 14

BUILDINGS AND BUILDING REGULATIONS*

***Charter reference**—Adoption of technical codes by reference, § 3.13.

State law reference—Municipal regulation of housing and other structures, V.T.C.A., Local Government Code § 214.001 et seq.

ARTICLE I. IN GENERAL

Sec. 14-1. ~~Penalty for~~ Violation of chapter.

Any person or agent who shall violate or cause to be violated any provision of this chapter, or who shall fail to comply with any of the requirements of this chapter, or who shall erect, construct, alter, demolish or move any structure or who shall have erected, constructed, altered, repaired, moved or demolished a building or structure in violation of a detailed statement or drawing submitted and approved under this chapter shall, upon conviction, be guilty of a misdemeanor ~~punished pursuant to section 1-14~~.

(Code 1974, § 4-2; Code 1994, § 14-1; Code 2005, § 14-1)

Sec. 14-2. Registration and licensing of providers and repair services.

(a) *License required.* No person, firm, partnership, corporation or other entity shall engage in, undertake or carry on any business in whole or in part within the corporate limits, consisting of or related to the demolition, repair or renovation of, or the making of improvements to, real property, including dwellings, homes, buildings, structures, or any fixtures attached thereto, without having registered with and received from the city a building contractors license.

(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:

Building contractor means any person, firm, partnership, corporation or other entity engaged in, undertaking, or carrying on any business consisting of or related to the demolition, repair, or renovation of any building or structure, including any fixtures attached thereto. The term "building contractor" shall be understood to include any general, electrical, mechanical or plumbing contractor.

Doing business. Any building contractor shall be deemed to be "doing business" or engaged in business and thus subject to the requirements of this section if he has an office, agency, project site or place of business located within the corporate limits, or when he operates or maintains a business, either temporary, periodically, or otherwise, in the city, expressly including, but not limited to, the demolition, repair, or renovation of any building or structure, including any fixtures attached thereto.

(c) *Registration; filing of application.* It shall be unlawful for any building contractors to do business in the city without having first registered with the city and received a building contractor's license. Registrants/applicants shall register and file applications with the city manager or his/her designee at city hall. Such registration/application form shall include the name of the building contractor, the principal office address (not a P.O. box) and primary e-mail address, the name, address, primary e-mail address and phone number of an individual who will be available to respond to questions or complaints, proof of comprehensive general liability insurance with minimum limits set by resolution and printed in Appendix D to this Code ~~of $300,000.00 per occurrence~~, and such other information as the city manager deems necessary and appropriate for the proper identification and location of such applicant/registrant. Required policies of insurance shall be issued by a carrier duly authorized to write such coverage in the state, and must also contain a completed operations endorsement. An applicant shall, under oath, provide the city

manager with a statement describing the general nature of the business to be conducted and give true and correct information as may be called for on the registration form, application or certificate provided by the city. Contractors who are already registered with the city shall, in addition to payment of the annual fee required under Appendix D to this Code, be required to maintain proof of insurance as described herein.

(d) *Fees.* Building contractor license fees are set by resolution and printed in ~~hereby fixed pursuant~~ Appendix D to this Code and represent the administrative cost to the city for processing such applications and issuing necessary license certificates. License fees shall be paid in full at the time of issuance of the license.

(e) *Transfer of license.* Each license issued pursuant hereto shall be personal to the applicant/registrant, and may not be transferred to any other building contractor.

(f) *Display of license.* A true and correct copy of each license issued hereunder shall be carried by every person operating pursuant to such licensee within the city, and shall be exhibited to any authorized enforcement officer when so requested.

(g) *License revocation or suspension.* Each license granted under this section is a permit to engage in the business for which such license is granted while and only during such period said business is conducted in a lawful manner. The city hereby reserves the right to revoke or suspend any license which has been granted hereunder, if the licensee, or the licensee's agent or employee acting within the scope of his employment, violates this section or any other city, state, or federal law. If after issuance of a license, the city manager receives evidence that such business is not being conducted in a lawful manner, he shall, prior to revocation of such license, give written notice thereof to the licensee, which notice shall specify the violation with which the licensee is charged and a date, time and place at which a hearing before the city manager shall be held with regard to the violation. The licensee shall have an opportunity to be heard at such hearing, shall have the right to be represented by counsel, and shall have the right to introduce and submit evidence in opposition to such revocation.

~~(h) *Penalty for violation.* Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2,000.00. Each day of violation shall constitute a separate offense.~~

(Code 1994, § 14-1; Code 2005, § 14-2; Ord. No. E2001-16, §§ 1--8, 6-18-2001; Ord. No. 2005-30, §§ 1--8, 9-26-2005; Ord. No. 2008-31, §§ 1--8, 9-11-2008; Ord. No. 2011-38, § 1, 1-9-2012; Ord. No. 2012-05, §§ 1, 2, 3-5-2012; Ord. No. 2013-43, § 2, 12-2-2013)

Secs. 14-3--14-22. Reserved.

ARTICLE II. BUILDING CODE

Sec. 14-23. International Building Code adopted.

The International Building Code, 2012 Edition, as published by the International Code Council, Inc., is hereby adopted by reference and made a part of this article. A copy of such code is on file with the city secretary.

(Code 1994, § 14-26; Code 2005, § 14-23; Ord. No. 2002-19, § 1, 11-18-2002; Ord. No. 2005-03, § 1, 1-17-2005; Ord. No. 2010-08, § 2, 4-19-2010; Ord. No. 2016-21, § 2(14-23), 5-2-2016)

State law reference—International Building Code as the commercial building code in this state, V.T.C.A., Local Government Code § 214.216.

Sec. 14-24. Amendments to International Building Code.

The 2012 Edition of the International Building Code, as adopted in section 14-23, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

101.1. Title. These regulations shall be known as the Building Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 109.2. Section 109.2 is hereby amended to add the following sentence:

The fee schedule shall be set by resolution and printed in Appendix D to the Code of Ordinances.

Section 108.1. Section 108.1 is hereby added ~~amended~~ to read as follows:

108.1. Plan checking fees. When a plan is required to be submitted by section 106, a plan-checking fee shall be paid to the building official at the time of permit issuance; provided, however, that if a permit is not issued for the project within 90 days of completion of the plan review, the plan review fees will become due and payable at that time. Said plan-checking fee shall be equal to one-half of the building permit fee.

Section 110.1. Section 110.1 is hereby amended by adding a new last sentence to read as follows:

110.1. For the purpose of this section, the moving of furniture or other personal property items into a property prior to issuance of a certificate of occupancy shall constitute the occupancy or use of the property.

Section 112.1. The following section 112.1 is hereby adopted to read as follows:

112.1. The construction board of adjustment and appeals shall consist of seven members. Such board members shall be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors, building industry representatives and licensed electrical contractors. In addition to the regular members, there shall be two alternate members, one member at large from the building industry and one member at large from the public. A board member shall not act in a case in which he has a personal or financial interest.

Section 401.2. The following section 401.2 is hereby added ~~amended~~ to read as follows:

401.2. All foundations are to be designed by a registered professional engineer. All plans must be submitted with original wet seal stamps applied. Foundation construction shall be capable of accommodating all loads according to section R301 and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations shall be designed, installed and tested in accordance with accepted engineering practice. Gravel fill used as footings for wood and precast concrete foundations shall comply with section R403.

Section 1507.8~~905.8~~. ~~The following~~ Section 1507.8~~905.8~~ is hereby amended to add a paragraph ~~adopted~~ to read as follows:

~~905.8.~~ Notwithstanding any other provision of this code to the contrary, no wood shingles or shakes shall be used in the construction of any structure except single-family residential structures, and then only when treated by an approved fire retardant. All plans shall indicate the roofing materials to be used.

Section 2904. Section 2904 is hereby amended to read as follows:

P2904. Dwelling unit fire sprinkler systems. The requirements of section P2904 are hereby deleted, except that any voluntary installation of a dwelling unit fire sprinkler system shall comply with NFPA 13 D.

(Code 1994, § 14-27; Code 2005, § 14-24; Ord. No. 2002-19, § 2, 11-18-2002; Ord. No. 2005-03, § 2, 1-17-2005; Ord. No. 2010-08, § 2, 4-19-2010; Ord. No. 2016-21, § 2(14-24), 5-2-2016)

Sec. 14-25. Trash on construction sites.

Trash and/or discarded construction materials for all construction sites shall be contained in an enclosure designed to prevent redistribution of the contents thereof (construction debris) by action of the wind, rain or other natural force.

(Code 1994, § 14-28; Code 2005, § 14-25; Ord. No. 2002-19, § 3, 11-18-2002)

Sec. 14-26. Site drainage.

No improvement to any lot, tract or parcel of land within the city shall be authorized until a site drainage plan for surface water drainage is submitted and approved in accordance with this section and the applicable provisions of the city's flood damage prevention regulations contained in chapter 34. No drainage plan shall be approved that provides for the drainage of surface waters onto or through adjacent properties, or which impounds or otherwise restricts natural flows, to the detriment to any adjacent or upstream property owner.

(Code 1994, § 14-29; Code 2005, § 14-26; Ord. No. 2002-19, § 4, 11-18-2002)

Sec. 14-27. Restoration of property to original condition.

If construction work on any lot, tract or parcel of land within the city is stopped or abandoned for a period of 180 days, and the extension of applicable permits are not obtained in accordance with applicable codes of the city, such construction site shall be returned to its original natural state. All partially constructed buildings, foundations, temporary utility facilities, and other associated partially constructed improvements shall be completely removed and the site shall be cleaned of all materials, properly graded and revegetated.

(Code 1994, § 14-30; Code 2005, § 14-27; Ord. No. 2002-19, § 5, 11-18-2002)

Sec. 14-28. Housekeeping practices.

All construction sites within the city shall be maintained in such a way that no mud or dirt will leave the site. Every effort shall be made to ensure that all streets and storm inlets are protected, as well as all streams, creeks and other waterways. All disturbed areas in front and side yards shall be sodded on lots less than one acre. Lots one acre and larger may provide sodding throughout any ditch areas located in city rights-of-way and onto the property adjacent to the ditches at least ten feet. Additionally, another form of revegetation acceptable to the city may be provided on the remainder of the site as long as silt fencing or other approved methods are installed to keep soils eroded from the site from entering the city's storm sewer system.

(Code 2005, § 14-28; Ord. No. 2005-03, § 3, 1-17-2005)

Secs. 14-29--14-57. Reserved.

ARTICLE III. ELECTRICAL CODE*

***State law reference—**National Electrical Code applicable statewide for residential construction, V.T.C.A., Local Government Code § 214.214.

DIVISION 1. GENERALLY

Sec. 14-58. 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:

Apprentice electrician means a person licensed as an apprentice electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Conviction means a final determination of guilt or the forfeiture of bail, recognizance or appeal bond.

Electrical inspector means the city electrical inspector or his duly authorized deputies.

Electrical work means any labor or material used in installing, maintaining, or extending an electrical wiring system and the appurtenances, apparatus or equipment used in connection with the use of electrical energy in, on, outside, or attached to a building, residence, structure, property, or premises. The term "electrical work" includes service entrance conductors as defined by the National Electrical Code.

Journeyman electrician means a person licensed as a journeyman electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Journeyman sign electrician means a person licensed as a journeyman sign electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Maintenance electrician means a person licensed as a maintenance electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Master electrician means a person licensed as a master electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Master sign electrician means a person licensed as a master sign electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Meter loop means the service entrance conductors, meter base, service overcurrent units, service disconnects, and the system and equipment grounding.

N.E.C. means the edition of the National Electrical Code as compiled by the National Fire Protection Association adopted in this article.

Residential wireman means a person licensed as a residential wireman as recognized under V.T.C.A., Occupations Code ch. 1305.002.

Safe condition, as applied to electrical installations and equipment, means installations and/or equipment which, in the opinion of the electrical inspector, can be used in service for which such installations or equipment are intended or likely to be used with minimum hazard to life, limb or property, thus being installations and equipment reasonably safe to persons and property.

(Code 1974, § 4-16(c); Code 1994, § 14-51; Code 2005, § 14-58; Ord. No. 2005-03, § 4, 1-17-2005)

Sec. 14-59. Purpose of article.

The object of this article is to reduce personal hazards and fire hazards from electrical causes. To accomplish this, the requirements set forth in this article are intended to provide a minimum standard for electrical work in the city.

(Code 1974, § 4-16(a); Code 1994, § 14-52; Code 2005, § 14-59)

Sec. 14-60. Scope of article.

The provisions of this article shall apply to all installations, use or maintenance of or repair to all electrical conductors, fittings, devices, signs, fixtures and/or motors (referred to in this article as "electrical work") within or on public and private buildings and premises located within the incorporated boundaries of the city.

(Code 1974, § 4-16(b); Code 1994, § 14-53; Code 2005, § 14-60)

Sec. 14-61. Liability.

This article shall not be construed to relieve from or lessen the responsibility of any person installing, operating or controlling any electrical wiring or electrical apparatus for damages to anyone thereby, or for full and faithful performance of the contract, nor shall the city be held as assuming any liability by reason of the inspection or reinspection authorized in this article or

certificate or permit issued pursuant to the provisions of this article, nor shall either the electrical inspector or the city be held as assuming any liability by reason of the inspection or reinspection authorized in this article or the certificates of conformance or nonconformance issued as provided in this article or by reason of the approval or disapproval of any equipment authorized in this article.

(Code 1974, § 4-20.8; Code 1994, § 14-54; Code 2005, § 14-61)

~~**Sec. 14-62. Penalty for violation of article.**~~

~~Any person violating any provision of this article shall, upon conviction, be punished pursuant to section 1-14.~~

~~(Code 1974, § 4-20.7; Ord. No. 90-28, § 3, 12-3-1990; Code 1994, § 14-55)~~

Sec. 14-62. Adoption of code; compliance required; conflicts; service requirements.

(a) Any and all electrical work placed in or on any building or structure within the corporate boundaries of the city shall be installed in conformity with the regulations and standards set forth in the 2011 Edition of the National Electrical Code, which is hereby adopted, and a copy of which is on file in the city secretary's office; other applicable ordinances of the city; and statutes and administrative rules and regulations of the state and agencies thereof.

(b) Where local rules and regulations are set forth in this article, they shall take preference over any rules conflicting therewith.

(c) Local rules.

(1) *Service laterals.* Any service lateral, serving residential or commercial structures, shall be run underground and enclosed in not less than a two-inch schedule 40 PVC underground conduit.

(2) *Underground services.* All underground services shall be completely installed in not less than two-inch schedule 40 PVC conduit from the meter can to the transformer or underground tap box, and shall be buried at a minimum depth of two feet.

(Code 1974, § 4-20.6; Code 1994, § 14-56; Code 2005, § 14-63; Ord. No. 90-28, § 2, 12-3-1990; Ord. No. 99-36, § 3, 9-27-1999; Ord. No. 2005-03, § 5, 1-17-2005; Ord. No. 2010-08, § 3, 4-19-2010; Ord. No. 2016-21, § 3, 5-2-2016)

Sec. 14-63. License required.

No electrical work of any type shall be done by any individual or company without a current city electrical license, except that a property owner performing electrical work with his own hands in a building or on the surrounding property owned by him and registered as his homestead may be issued a permit to do electrical work on his homestead without a city license.

(Code 1974, § 4-20.6(a); Code 1994, § 14-57; Code 2005, § 14-64; Ord. No. 2005-03, § 6, 1-17-2005)

Sec. 14-64. Firefighting hazards.

No wire or other electrical apparatus shall be installed, operated or maintained over any street, alley, sidewalk or building which may be reasonably calculated to interfere seriously with the work of the fire department in the use of ladders or other apparatus, or which shall obstruct or render hazardous the use of fire escapes. On complaint of the city fire chief, the interfering obstructions or hazardous wire shall be removed or properly rearranged.

(Code 1974, § 4-20.6(b); Code 1994, § 14-58; Code 2005, § 14-65)

Sec. 14-65. Job supervision.

There shall be at least one journeyman, master, or, where appropriate, residential wireman licensed electrician on each property where electrical work of any type is being done by an apprentice electrician.

(Code 1994, § 14-59; Ord. No. 2005-03, § 7, 1-17-2005; Code 2005, § 14-66)

Sec. 14-66. Identification of service vehicles.

All persons engaged in the electrical business in the city shall identify all service vehicles used in such business with signs showing the name, business or home address, and exchange and telephone number of such business. This information must be correct at all times and must be permanently attached to each side of such vehicle in full view at all times.

(Code 1974, § 4-20.4(g); Code 1994, § 14-60; Code 2005, § 14-67)

Secs. 14-67--14-92. Reserved.

DIVISION 2. APPEALS

~~***Editor's note--**Ord. No. 2010-08, § 3, adopted Apr. 19, 2010, amended div. 2 in its entirety to read as herein set out. Former div. 2, entitled "Electrical Board" and § 14-93, derived from Code 1974, § 4-19(c); Code 1994, § 14-82; and Ord. No. 99-36, § 7, adopted Sept. 27, 1999.~~

Sec. 14-93. Appeal of decisions by the electrical inspector.

(a) Any person aggrieved by a decision or ruling of the electrical inspector shall have the right of appeal to the construction board of adjustment and appeals for its review. Such appeal shall be perfected by a request in writing to the chairperson of the board for a hearing, in which the following information shall be contained:

(1) Name, ~~and~~ address and primary e-mail address of the person making the appeal.

(2) Facts surrounding the particular ruling or refusal to make a ruling.

(3) The ruling, if any, of the electrical inspector.

(4) Reasons why such ruling should be set aside, or if a ruling was refused, why such ruling should be made.

(b) During the pendency of any appeal to the construction board of adjustment and appeals, the ruling of the electrical inspector shall be in full force and effect.

(Code 2005, § 14-93; Ord. No. 2010-08, § 3, 4-19-2010)

Secs. 14-94--14-116. Reserved.

DIVISION 3. ELECTRICAL INSPECTOR

Sec. 14-117. Creation of office; qualifications.

There is hereby created the office of electrical inspector of the city. The person chosen to fill the office of electrical inspector shall be of good moral character; shall be competent and well versed in the rules and regulations of the National Electrical Code, of such statutes of the state as are applicable, and the terms of this division; shall be possessed of such executive ability as is requisite for the performance of his duties; shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; and shall be well versed in approved methods of construction for safety to persons and property.

(Code 1974, § 4-20(a); Code 1994, § 14-96; Code 2005, § 14-117; Ord. No. 2005-03, § 9, 1-17-2005)

Sec. 14-118. Responsibility for inspection and fees.

It shall be the duty of the electrical inspector to enforce the provisions of this division. He shall, upon application by electricians licensed by the city, collect and account for the fees and deposits fixed and provided for in this division, and shall make inspections of electrical installations and perform such other acts and duties as are provided for in this division.

(Code 1974, § 4-20.1(a); Code 1994, § 14-99; Code 2005, § 14-118)

Sec. 14-119. Appointment of assistants.

The electrical inspector is empowered to appoint such assistants as are necessary for the proper conduct of his office and the inspection of electrical work as provided for in this division, subject to approval by the city manager. Salaries of any such assistants shall be determined by the city manager.

(Code 1974, § 4-20.1(d); Code 1994, § 14-101; Code 2005, § 14-119)

Sec. 14-120. Outside interests prohibited.

It shall be unlawful for the electrical inspector or for any of his assistants to engage in the business of the sale, installation or maintenance of electrical equipment, either directly or indirectly, and they shall have no financial interest in any concern engaged in such business in the city at any time while holding such office as provided in this division.

(Code 1974, § 4-20.1(e); Code 1994, § 14-102; Code 2005, § 14-120)

Sec. 14-121. Removal from office.

The city manager may remove from office the electrical inspector or any of his assistants at any time, with or without cause.

(Code 1974, § 4-20.1(f); Code 1994, § 14-103; Code 2005, § 14-121)

Sec. 14-122. Liability of inspector and assistants.

Neither the electrical inspector, nor any of his assistants shall, when acting in good faith and without malice, be liable for damages arising by reason of duties performed under the provisions of this division.

(Code 1974, § 4-20.1; Code 1994, § 14-104; Code 2005, § 14-122)

Sec. 14-123. Authority.

(a) *Inspections*. The electrical inspector shall have the right during reasonable hours to enter any building or premises in the discharge of his official duties, or for the purpose of making any inspection, reinspection or test of electrical equipment contained therein, or its installation.

(b) *Interference unlawful*. It shall be unlawful for any person to interfere with the electrical inspector in the discharge of his duties or to prevent or in any manner attempt to prevent him from carrying out the provisions of this division.

(c) *Right to remove obstructions*. The electrical inspector shall have the right to remove or compel the removal of any obstruction such as lath, plastering, ceiling or flooring which may hinder a full and complete investigation of such wires or apparatus as the inspector may deem necessary to inspect.

(d) *Condemnation of conductors*. The electrical inspector may remove or compel the removal of any conductors which are enclosed in conduit or are otherwise inaccessible for complete inspection. When such conductors are not in accordance with the requirements of this division or the National Electrical Code, or are found to be otherwise unsafe to life or property, the electrical

inspector shall have the right to condemn, disconnect and cause the owner of such conductor or material to immediately correct such conductor or have it removed.

(Code 1974, § 4-20.2(a)--(d); Code 1994, § 14-105; Code 2005, § 14-123)

Sec. 14-124. Notice to comply.

Where any electrical work is found by the electrical inspector to be dangerous to persons or property, the person owning, using or operating such electrical work shall be notified in writing to make any changes or repairs which are required to make such electrical work in safe condition, and if such required work is not completed within five working days, or as soon as specified by the electrical inspector, the inspector shall have the authority to disconnect or cause to be disconnected all electrical equipment of installations and/or the premises in or upon which such equipment is located. Any person failing or refusing to repair or remove such equipment within the specified time, after the receipt of such notice shall be subject to the penalty provided in this division. Each day that such electrical work shall remain not repaired, removed or changed as required by the electrical inspector shall be considered a separate offense within the intent and meaning of this division.

(Code 1974, § 4-20.2(e); Code 1994, § 14-106; Code 2005, § 14-124)

Sec. 14-125. Stop work notice.

The electrical inspector shall cause the cessation of any electrical work being done in any manner which violates the provisions of this division, and he shall cause the discontinuance of maintenance or operations, or the use of materials, which violate the provisions of this division; and upon determining that particular work should cease, the inspector shall post a notice to that effect on the premises and thereafter no person shall proceed with electrical work until the inspector has cancelled the stop work notice. The electrical inspector may attach to electrical work or electrical meters any notice or seal to prevent the use of electricity; and it shall be unlawful for any person to use any seal or break, change, destroy, tear, mutilate, cover, or otherwise deface or injure any such official notice or seal posted by the electrical inspector.

(Code 1974, § 4-20.2(f); Code 1994, § 14-107; Code 2005, § 14-125)

Sec. 14-126. Authority to disconnect.

In case of an emergency, where necessary for the safety of persons or property, or where electrical equipment may interfere with the work of the fire department, the electrical inspector shall have the authority to immediately disconnect or cause the immediate disconnection of any electrical equipment, and without notice to anyone.

(Code 1974, § 4-20.2(g); Code 1994, § 14-108; Code 2005, § 14-126)

Sec. 14-127. Change of occupancy, compliance required.

The electrical inspector shall be empowered to order compliance with the provisions of this division where a change of occupancy occurs within a building which requires changes or alteration to existing wiring.

(Code 1974, § 4-20.2(h); Code 1994, § 14-109; Code 2005, § 14-127)

Sec. 14-128. Special rulings.

The electrical inspector shall make all decisions pertaining to the installation, repair or other alteration of all electrical wiring, devices and equipment provided for in this division, such decisions to be made after taking into consideration the National Electrical Code, such statutes of the state as are applicable to such decisions, the provisions of this division, and in light of the standards generally recognized by the electrical trade concerning the safe and proper installation

of electrical work. All special rulings shall be reduced to writing and kept on file in the office of the inspector.

(Code 1974, § 4-20.2(i); Code 1994, § 14-110; Code 2005, § 14-128)

Sec. 14-129. Appeals.

Any person aggrieved by a decision of the electrical inspector shall have such right of appeal as is provided in section 14-93.

(Code 1974, § 4-20.2(j); Code 1994, § 14-111; Code 2005, § 14-129)

Secs. 14-130--14-158. Reserved.

DIVISION 4. PERMITS

Sec. 14-159. Required.

(a) No person shall undertake or complete any electrical installation or install, erect or alter any electrical work in or on any building or premises in the city without first securing a permit therefor from the office of the electrical inspector. No permit shall be issued for electrical work except that which is authorized under this division.

(b) In cases where licenses, permits, fees and bonds are required for the installation or repair of electrical work for any purpose, such electrical work shall be installed or repaired in conformity with such provisions of this division as are applicable.

(Code 1974, § 4-20.4(a)--(c); Code 1994, § 14-121; Code 2005, § 14-159)

Sec. 14-160. Who may obtain.

(a) Except as otherwise specifically provided in this division, no permit shall be issued to any person who is not the holder of a valid unexpired master electrician's license. A master electrician who is employed as a master electrician for a person shall take out electrical permits only for that person and shall supervise, direct and control the electrical work for which the electrical permit is obtained. A master electrician who is engaged in the electrical business for himself shall take out electrical permits for his business only and no electrical permits shall be taken out by any master electrician who does not supervise, direct and control the electrical work for which the permit is obtained. Each master electrician may appoint not more than two of his full-time employees to act as his agents in obtaining permits by filing with the electrical inspector an affidavit sworn to before an officer authorized to administer oaths, stating the name, ~~and~~ address and primary e-mail address of each such agent, that each agent is a regular and full-time employee under the supervision of such master electrician, and that such master electrician assumes all and full responsibility for any permit taken out or applied for by any such agent. Such affidavit shall be permanently filed by the electrical inspector, but this provision is intended only as a convenience to master electricians in handling ordinary electrical work and shall never be construed as making the delivery of a permit to any agent mandatory upon the electrical inspector.

(b) A property owner performing electrical work with his own hands in a building or on the surrounding property owned by him and registered as his homestead may be issued a permit to do electrical work on his homestead.

(Code 1974, §§ 4-16(c), (b), 4-20.4(c); Code 1994, § 14-122; Code 2005, § 14-160; Ord. No. 2005-03, § 11, 1-17-2005)

Sec. 14-161. Application.

Applications for permits required by this division must be made in writing by the person employed to do the work, or his authorized agent as provided in section 14-160, and will be submitted upon forms provided by the electrical inspector for that purpose.

(Code 1974, § 4-20.4(d); Code 1994, § 14-123; Code 2005, § 14-161; Ord. No. 2005-03, § 12, 1-17-2005)

Sec. 14-162. Schedule of fees.

Before any permit will be granted for the installation or alteration of electrical work, the licensed electrician making application for such permit shall pay to the electrical inspector the fees in such amount as ~~established~~ set by resolution and printed in Appendix D to this Code.

(Code 1974, § 4-20.4(e); Code 1994, § 14-124; Code 2005, § 14-162)

Sec. 14-163. Hours for submitting applications.

Applications for permits will only be accepted when presented during normal working hours of the electrical department.

(Code 1974, § 4-20.4(f); Code 1994, § 14-125; Code 2005, § 14-163; Ord. No. 99-36, § 11, 9-27-1999)

Sec. 14-164. Issuance.

When the electrical inspector finds the application to be correct, and the plans and diagram or specifications are approved and the required fees have been paid, he shall cause the permit to be issued. Upon receipt of such permit, the electrician may start the proposed job and make the installation described in his application, requesting inspection by the inspector in the proper sequence as the work progresses.

(Code 1974, § 4-20.4(g); Code 1994, § 14-126; Code 2005, § 14-164)

Sec. 14-165. Unspecified work not authorized.

No permit shall be deemed to authorize anything not stated in the application, and for any misrepresentation in such application the permit shall be suspended; and if such misrepresentation appears to be willful, the permit shall be revoked.

(Code 1974, § 4-20.4(i); Code 1994, § 14-128; Code 2005, § 14-165)

Sec. 14-166. Terms of permit.

If the work authorized by a permit is not begun within 90 days from the date thereof, such permit shall thereupon and thereafter be null and void; and before doing any further work at the location designated in such permit, a new permit must be obtained in like manner as the first, and only upon payment of such fees and deposits as are specified in this division. The permit shall be valid for 180 days. However, the electrical inspector may extend the initiation or expiration date where he finds that extraordinary circumstances beyond the control of the permit holder have made it impossible to initiate or complete the work before the original date.

(Code 1974, § 4-20.4(j); Code 1994, § 14-129; Code 2005, § 14-166; Ord. No. 2005-03, § 14, 1-17-2005)

Sec. 14-167. Permits for partial jobs.

When one electrician completes the rough work, in whole or in part, on any electrical wiring or installation of fixtures or equipment and a second electrician is called upon to complete the work in whole or in part, then, in that event, a separate permit is required for which regular fees shall be paid for the work to be done.

(Code 1974, § 4-20.4(m); Code 1994, § 14-132; Code 2005, § 14-167; Ord. No. 2002-19, § 8, 11-18-2002)

Sec. 14-168. Separate permit required.

A separate permit shall be required for each separate building, store space or apartment, whether such unit is metered separately or conjunctively, and a service permit shall be taken on all units, whether supplied from a central metering station or directly from the electrical supply agency. If the permittee does not complete the electrical work for which the permit has been issued, then the contractor who finished such work shall apply for a new permit on such work.

There shall be only one permit issued or outstanding at the same time for any one installation of electrical equipment.

(Code 1974, § 4-20.4(n); Code 1994, § 14-133; Code 2005, § 14-168)

Sec. 14-169. Permit not transferrable.

Each permit issued under the terms of this division shall be personal to the permittee and shall not be assigned or transferred to any other person; and, except as otherwise specifically provided in this division, it shall be unlawful:

(1) For one person to obtain a permit in the name of another person, except as specified in section 14-160(a).

(2) For one person to do or perform any electrical work under the permit issued to another person.

(3) For one person to suffer, allow or permit another person to do or perform any electrical work under the permit under such other person's name.

(Code 1974, § 4-20.4(p); Code 1994, § 14-134; Code 2005, § 14-169)

Secs. 14-170--14-197. Reserved.

DIVISION 5. INSPECTIONS

Sec. 14-198. Inspector to be notified.

Upon completion of any installation of electrical equipment which has been made under a permit, it shall be the duty of the licensed master electrician, or his duly authorized agent, making the installation to notify the electrical inspector that the work is ready for inspection.

(Code 1974, § 4-20.3(a); Code 1994, § 14-146; Code 2005, § 14-198; Ord. No. 2005-03, § 17, 1-17-2005)

Sec. 14-199. Concealed electrical work.

When any electrical equipment is to be hidden from view by the permanent placement of parts of the building and/or equipment, the licensed master electrician installing the equipment shall notify the electrical inspector, and such equipment shall not be concealed until it has been inspected and approved by the electrical inspector.

(Code 1974, § 4-20.3(e); Code 1994, § 14-150; Code 2005, § 14-199; Ord. No. 2005-03, § 21, 1-17-2005)

Sec. 14-200. Uncovering concealed equipment.

The electrical inspector shall have the authority to require any person to uncover any wiring or electrical equipment which has been concealed without his knowledge or permission for which inspection is required pursuant to this division.

(Code 1974, § 4-20.3(f); Code 1994, § 14-151; Code 2005, § 14-200)

Sec. 14-201. Certificate of nonconformance.

If, upon inspection, an electrical installation is not found to be in full conformity with the provisions of this division, the electrical inspector shall issue a notice of nonconformance and shall notify the licensed master electrician making the installation of the defects which have been found to exist. All defective work shall be corrected and brought into conformity with the provisions of this division before any further electrical work will be permitted within or on the building or premises and before the licensed master electrician making the installation shall be issued any other permits to perform any other electrical work.

(Code 1974, § 4-20.3(k); Code 1994, § 14-156; Code 2005, § 14-201)

Sec. 14-202. Fees.

No fee shall be charged against the permit holder for the initial inspection; however, when work is found to be incomplete or unsatisfactory after the inspection is requested, a fee ~~established~~ set by resolution and printed in Appendix D to this Code shall be made for each reinspection.

(Code 1974, § 4-20.3(l); Code 1994, § 14-157; Code 2005, § 14-202; Ord. No. 99-36, § 13, 9-27-1999)

Sec. 14-203. Responsibility for defects.

Every person licensed in conformance with this division shall be responsible for any defect in electrical work, insofar as correction thereof is concerned, installed by him until such time as a certificate of conformance and approval has been issued by the electrical inspector, and any and all defects that may have been concealed by such person and discovered by the electrical inspector after a certificate of conformance has been issued approving such work. After the issuance of the certificate of conformance, the person in whose name the electrical work is contracted shall be responsible for all defects caused by such person.

(Code 1974, § 4-20.3(m); Code 1994, § 14-158; Code 2005, § 14-203)

Secs. 14-204--14-228. Reserved.

DIVISION 6. ELECTRICIAN'S LICENSES

Sec. 14-229. Required.

Except as otherwise provided in this division, no person shall engage in the business of contracting for, installing, altering or repairing any electrical work within the city which is regulated by this division unless such person shall hold a valid, unexpired master electrician's license granted in accordance with state law.

(Code 1974, § 4-20.5(a); Code 1994, § 14-191; Code 2005, § 14-229)

Sec. 14-230. Applications.

Every application for a license as a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, residential wireman, maintenance electrician, or apprentice electrician shall be made upon a form furnished by the electrical inspector. Every application shall state the name, date of birth, residence and business address, and primary e-mail address of the applicant. Each applicant shall supply a copy of their current state electrical license.

(Code 1994, § 14-192; Code 2005, § 14-230; Ord. No. 2005-03, § 27, 1-17-2005; Ord. No. 2010-08, § 3, 4-19-2010)

Sec. 14-231. Term and renewal.

No license under this division shall be issued for more than a year, and such license may be renewed from year to year upon application by the holder of such license. All licenses shall expire on December 31 of each year.

(Code 1994, § 14-193; Code 2005, § 14-231; Ord. No. 2005-03, § 28, 1-17-2005)

Sec. 14-232. Issuance.

Upon the submission of satisfactory proof that an applicant is licensed by the state as a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, residential wireman, maintenance electrician, or apprentice electrician, the electrical inspector, upon payment of such fees and upon fulfillment of such other requirements as are specified in this division, shall issue to each applicant the class of license which such person is qualified to receive under the provisions of this division.

(Code 1994, § 14-196; Code 2005, § 14-232; Ord. No. 2005-03, § 30, 1-17-2005)

Sec. 14-233. Restrictions on work beyond scope of license.

It shall be unlawful for the holder of any license issued under the provisions of this division to engage in any phase of the electrical business or perform any work in the electrical trade other than such business or work authorized by the class of license or permit held by him. The master, journeyman, or when applicable, residential wireman electrician responsible shall be present, on the site, whenever electrical materials, products or equipment are being installed.

(Code 1994, § 14-197; Code 2005, § 14-233; Ord. No. 2005-03, § 31, 1-17-2005)

Secs. 14-234--14-251. Reserved.

ARTICLE IV. PLUMBING CODE*

***State law reference**—Municipal authority concerning plumbing and house draining, V.T.C.A., Local Government Code § 214.012.

Sec. 14-252. International Plumbing Code adopted.

The International Plumbing Code, 2012 Edition, as published by the International Code Council, Inc., a copy of which is on file with the city secretary, is hereby adopted and made a part of this article.

(Code 1994, § 14-232; Code 2005, § 14-252; Ord. No. 2002-19, § 13, 11-18-2002; Ord. No. 2005-03, § 38, 1-17-2005; Ord. No. 2010-08, § 4, 4-19-2010; Ord. No. 2016-21, § 4(14-252), 5-2-2016)

Sec. 14-253. Amendments.

The 2012 Edition of the International Plumbing Code, as adopted in section 14-252, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

> 101.1 *Title.* These regulations shall be known as the Plumbing Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 106.6.2. Section 106.6.2 is hereby amended to read as follows:

> 106.6.2 *Fee schedule.* The fees for permits required hereunder shall be in accordance with the schedule of fees as ~~established from time to time by the city council, and as more fully set forth~~ set by resolution and printed in Appendix D to the ~~Friendswood City~~ Code of Ordinances.

Section 106.6.3. Section 106.6.3 is hereby amended to read as follows:

> 106.6.3. *Fee refunds.* The code official shall authorize the refunding of fees where the full amount of any fee paid hereunder was erroneously paid or collected.

Section 109.2. Section 109.2 is hereby amended to read as follows:

> 109.2 *Membership of the board of appeals*. The board shall be appointed by the city council and the qualifications of members of the board, and the terms for which such members shall serve, shall be as determined by the city council. The city council may remove any member of the board at any time, with or without cause, regardless of whether such member has been appointed for a definite or an indefinite term.

Section 305.4.1. Section 305.4.1 is hereby amended to read as follows:

> 305.4.1. *Sewer depth.* Building sewers, which connect to private sewage disposal systems, shall be a minimum of 12 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches below grade.

Section 608.16.5 Section 608.16.5 is hereby amended to read as follows:

A. Irrigation systems shall be installed in accordance with this section and other applicable rules and regulations of the city.

B. Irrigation system design drawings shall be prepared by a master plumber whose license number shall appear on the drawings, or by a state professional engineer, a licensed irrigation installer, or a licensed landscape architect. The latter three professionals shall seal, sign and date their drawings.

C. It shall be unlawful for any person for hire to install all or any part of an irrigation system within the city unless that person holds a master plumber license issued by the Texas State Board of Plumbing Examiners or a valid installer's license issued by the Texas Commission on Environmental Quality ("TCEQ"), in accordance with V.T.C.A., Occupations Code § 1903.251.

D. The owner of the property on which an irrigation system is to be installed may install all of the irrigation system with the exception of the connection to the potable water source, the water meter and the required backflow prevention device, each of which must be installed and appropriately connected by a qualified person as noted in subsection C of this section.

E. It shall be unlawful for any person to install all or any portion of an irrigation system without having first received a permit therefor from the city. An irrigation installation permit for the installation of the connection to the potable water source, the water meter and the required backflow prevention device shall not be issued to any person who is not a qualified person as noted in subsection C of this section.

F. The city shall have no obligation to maintain or protect, or to repair or replace, all or any part of an irrigation system, existing or future, that is located within a public right-of-way or easement, that is damaged or destroyed, or required to be removed, incident to or as a result of roadway and/or utility or drainage construction, maintenance or operation.

G. Exemptions to the above permit requirements are:

(1) Systems associated with on-site sewage disposal systems;

(2) Irrigation systems used on or by an agriculture operation; or

(3) Irrigation systems connected to a groundwater well used for domestic purposes.

Section 904.1. Section 904.1 is hereby amended to read as follows:

904.1. *Roof extension*. All open vent pipes that extend through a roof shall be terminated at least six inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven feet (2,134 mm) above the roof.

(Code 1994, § 14-232; Code 2005, § 14-253; Ord. No. 2002-19, § 14, 11-18-2002; Ord. No. 2009-02, § 2, 3-23-2009; Ord. No. 2010-08, § 4, 4-19-2010; Ord. No. 2016-21, § 4(14-253), 5-2-2016)

~~**Sec. 14-254. Penalty for violation of article.**~~

~~Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined pursuant to section 1-14, except that a violation of section 608.16.5 of the plumbing code adopted in this article shall be subject to a fine in an amount not to exceed $500.00.~~

~~(Code 1994, § 14-234; Ord. No. 99-36, § 30, 9-27-1999; Ord. No. 2009-02, § 2, 3-23-2009; Ord. No. 2010-08, § 4, 4-19-2010)~~

Secs. 14-254--14-273. Reserved.

ARTICLE V. MECHANICAL CODE

Sec. 14-274. International Mechanical Code adopted.

The 2012 Edition of the International Mechanical Code, including appendices except Appendix B thereof, as published by the International Code Council, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted by reference and made a part of this article.

(Code 1994, § 14-256; Code 2005, § 14-274; Ord. No. 2002-19, § 15, 11-18-2002; Ord. No. 2005-03, § 39, 1-17-2005; Ord. No. 2010-08, § 5, 4-19-2010; Ord. No. 2016-21, § 5(14-274), 5-2-2016)

Sec. 14-275. Amendments.

The 2012 Edition of the International Mechanical Code, as adopted in section 14-274, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

> 101.1 *Title.* These regulations shall be known as the Mechanical Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 106.5.2. Section 106.5.2 is hereby amended to read as follows:

> 106.5.2 *Fee schedule*. The fees for permits required hereunder shall be in accordance with the schedule of fees as ~~established from time to time by the city council, and as more fully set forth~~ set by resolution and printed in Appendix D to the ~~Friendswood City~~ Code of Ordinances.

Section 106.5.3. Section 106.5.3 is hereby amended to read as follows:

> 106.5.3. *Fee refunds.* The code official shall authorize the refunding of fees where the full amount of any fee paid hereunder was erroneously paid or collected.

Section 109.2. Section 109.2 is hereby amended to read as follows:

> 109.2 *Membership of the board of appeals*. The board shall be appointed by the city council and the qualifications of members of the board, and the terms for which such members shall serve, shall be as determined by the city council. The city council may remove any member of the board at any time, with or without cause, regardless of whether such member has been appointed for a definite or an indefinite term.

(Code 1994, § 14-257; Code 2005, § 14-275; Ord. No. 2002-19, § 16, 11-18-2002; Ord. No. 2010-08, § 5, 4-19-2010; Ord. No. 2016-21, § 5(14-275), 5-2-2016)

Secs. 14-276--14-298. Reserved.

ARTICLE VI. FUEL GAS CODE

Sec. 14-299. International Fuel Gas Code adopted.

The 2012 Edition of the International Fuel Gas Code, as published by the International Code Council, Inc., a copy of which has been filed with the city secretary, is hereby adopted and made a part of this article.

(Code 1994, § 14-281; Code 2005, § 14-299; Ord. No. 2002-19, § 17, 11-18-2002; Ord. No. 2005-03, § 40, 1-17-2005; Ord. No. 2010-08, § 6, 4-19-2010; Ord. No. 2016-21, § 6(14-299), 5-2-2016)

Sec. 14-300. Amendments.

The 2012 Edition of the International Fuel Gas Code, as adopted in section 14-299, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

101.1 *Title.* These regulations shall be known as the Fuel Gas Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 106.6.2. Section 106.6.2 is hereby amended to read as follows:

106.6.2 *Fee schedule.* The fees for permits required hereunder shall be in accordance with the schedule of fees as ~~established from time to time by the city council, and as more fully set forth~~ set by resolution and printed in Appendix D to the ~~Friendswood City~~ Code of Ordinances.

Section 106.6.3. Section 106.6.3 is hereby amended to read as follows:

106.6.3 *Fee refunds*. The code official shall authorize the refunding of fees where the full amount of any fee paid hereunder was erroneously paid or collected.

Section 109.2. Section 109.2 is hereby amended to read as follows:

109.2 *Membership of the board of appeals.* The board shall be appointed by the city council and the qualifications of members of the board, and the terms for which such members shall serve, shall be as determined by the city council. The city council may remove any member of the board at any time, with or without cause, regardless of whether such member has been appointed for a definite or an indefinite term.

(Code 1994, § 14-282; Code 2005, § 14-300; Ord. No. 2002-19, § 18, 11-18-2002; Ord. No. 2010-08, § 6, 4-19-2010; Ord. No. 2016-21, § 6(14-299), 5-2-2016)

Secs. 14-301--14-318. Reserved.

ARTICLE VII. SUBSTANDARD BUILDINGS AND STRUCTURES*

***State law reference**—Municipal authority concerning substandard buildings, V.T.C.A., Local Government Code § 214.001 et seq.; additional authority to secure substandard building, V.T.C.A., Local Government Code §§ 214.0011, 214.0015.

Sec. 14-319. Building and standings commission created; composition.

There is hereby created the building and standards commission, composed of five members, which shall consist of the members of the board of adjustment, and alternate members appointed by city council, who shall serve in the absence of one or more regular members when requested to do so by the city manager/designee. Persons appointed to the board of adjustment shall also automatically be appointed to the building and standards commission, and such appointment shall constitute one position. Persons appointed to the board of adjustment/building and standards commission shall hold no other position in the city government, and shall serve without pay. Each member shall be a qualified voter at the time of appointment and shall be a resident within the corporate limits of the city and shall have been a resident for a period of 12 months prior to appointment. The appointment of the members shall be for a term of two years or until replacements are appointed corresponding and indistinguishable with the requirements for the board of adjustment.

(Code 2005, § 14-319; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-320. Authority and purpose.

(a) This article is remedial and essential to the public interest, safety, health, and welfare and it is intended that this article be liberally construed to effectuate its purposes. This article establishes minimum standards for the continued use and occupancy of all buildings/structures regardless of the date of their construction; materials or methods used to construct a building/structure or improvements, including the foundation, structural elements, electrical wiring, plumbing, fixtures, entrances, or exits; addresses conditions caused by accumulations of

refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; and incorporates the building codes or other city codes and statutory provisions relating to the condition, use, or appearance of property within the city. The provisions of this article are hereby adopted pursuant the city Charter, the Texas Constitution, Article XI, Section 5, and in accordance with V.T.C.A., Local Government Code chs. 54, 214 and 342.

(b) The purposes of this article include, but are not limited to, the following:

(1) To establish the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, regardless of the dates of construction, in order to safeguard the public health, safety, and welfare and to protect property.

(2) To provide the authority to order and direct the method of securing property that is unoccupied by its owners, lessees, or other invitees, and which is unsecured from unauthorized entry to the extent that such buildings or structures could be entered or used by vagrants or other uninvited persons or could be entered or used by children.

(3) To provide the authority to address, and direct the method of addressing buildings and structures which, although boarded up, fenced, or otherwise secured in any manner, exhibit conditions that may constitute a danger to the public, even though secured from entry, or the means used to secure the building or structure is inadequate to prevent unauthorized entry or use of the building by vagrants or other uninvited persons or could be entered or used by children. The city may require the building or structure, which endangers the public health and safety of the occupants of said building and structure and the general public, to be vacated, secured, repaired, removed, and/or demolished by the owner and/or the occupants thereof to be relocated.

(4) To provide fire safety of buildings or improvements, including provisions related to materials, types of construction or design, warning devices, fire suppression devices, availability of water supply for extinguishing fires, location, design or width of entrances or exits, and enforcement of all city building and fire codes.

(Code 2005, § 14-320; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-321. Minimum building standards adopted; investigation.

Any building or structure whose condition has deteriorated or is operated or maintained in violation of the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, as adopted and established in this article, is hereby subject to investigation upon presentation of evidence of probable cause for issuance of a search warrant to a magistrate by the code enforcement official, fire marshal, or health officer designated in accordance with V.T.C.A., Code of Criminal Procedure art. 18.05. Prior to requesting issuance of a search warrant, such official shall obtain approval of the city manager/designee.

(Code 2005, § 14-321; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-322. Dangerous buildings, structures and nuisances defined.

Any building or structure, regardless of date of its construction, having any of the following defects, shall be deemed to be substandard and/or unfit for human habitation and as a result, a danger to the public health, safety and welfare and thus, declared to be a dangerous building or structure:

(1) Any building or structure that has become deteriorated or damaged such that its roof, or walls, is not weathertight and waterproof.

(2) Any building or structure that is so structurally deteriorated or damaged that it is in danger of collapse or that cannot be expected to withstand reasonably anticipated weather conditions, such as storms or hurricanes.

(3) Conditions of any building or structure that violate any provision of the city's building, electrical, plumbing, fire, or other such codes, specifically including conditions subject to the city nuisance ordinance, when such nonconformity constitutes a danger to the public health, safety, and welfare, including any device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(4) Buildings and structures, regardless of their structural condition, that have been, during times that they were not actually occupied by their owners, lessees or other legal invitees, left unsecured from unauthorized entry to the extent that they may be entered by vagrants or other uninvited persons as a place of harborage or could be entered by children.

(5) Buildings and structures which are secured by a means inadequate to prevent unauthorized entry or use in the manner described in subsection (4) of this section.

(6) A wall or other vertical member that lists, leans or buckles to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base as may be determined from the exterior of the building or structure.

(7) Exclusive of the foundation, 33 percent or more damage or deterioration to the supporting member or members or 50 percent of damage or deterioration to the nonsupporting enclosing or outside walls or coverings.

(8) An improperly distributed load upon the floor or roof, or an overloaded roof or floor, or a floor or roof with insufficient strength to be reasonably safe for the purpose used.

(9) Inadequate facilities for egress in case of fire or panic or insufficient stairways, elevators, or fire escapes as may be determined from the exterior of the building or structure.

(10) When a building which is partially constructed has not had any significant construction work done on it in the preceding six months, and it is not secured by a fence or other means to prevent children and vagrants from entering the building.

(11) Parts of buildings and structures that may fall and injure a person or property.

(12) Hazardous or unsanitary premises that have an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, rat harborages, stagnant water, combustible materials and similar materials or conditions that constitute fire, health or safety hazards in the opinion of the code enforcement official.

(Code 2005, § 14-322; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-323. Declaration of nuisance; conduct prohibited.

Any building or structure which has any or all of the conditions or defects described in section 14-322, where such condition or conditions pose a threat or potential threat to life, health, property, or human safety; or conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects, and rodents, is hereby declared to be a public nuisance, is prohibited as unlawful, and shall be abated according to provisions of this article. It is an offense for an owner or occupant or other person having control of the building, structure or property to fail to abate such public nuisance. Therefore failure to abate such condition may also be prosecuted as a criminal misdemeanor offense. It is a further offense and unlawful for any person to cause, permit, or allow a dangerous building after the 30th day after the date on which the building and standards commission finds a condition of nuisance and orders abatement, or after such extended date as may be lawfully permitted by the building and standards commission.

(Code 2005, § 14-323; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-324. Commencement of proceedings.

(a) When the code enforcement official has determined that a building/structure is a dangerous building, he will set a date and time for a public hearing before the building and standards commission to determine if the building complies with the minimum standards established in this article. The code enforcement official may seek voluntary compliance with the owner, lienholder or mortgagee of the building before seeking a hearing before the commission. If the code enforcement official receives voluntary compliance from the owner, lienholder or mortgagee, a public hearing is not required.

(b) In addition, in accordance with V.T.C.A., Local Government Code § 214.0011, the code enforcement official may secure a building if it is determined it violates the minimum standards for use and occupancy of the building and is unoccupied or is occupied only by persons who do not have a right of possession if:

(1) Before the 11th day after the building is secured, the owner is given notice in accordance with V.T.C.A., Local Government Code § 214.0011(c); and

(2) The building and standards commission conducts a hearing within 20 days after a request for hearing is filed by the owner, provided said request for hearing is filed within 30 days after the building is secured.

(Code 2005, § 14-324; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-325. Notice of hearing before the building and standards commission.

Notice of all proceedings before the building and standards commission shall be given on or before the tenth day before the date fixed for hearing before the building and standards commission and must state the date, time, and place of the hearing:

(1) By personal delivery, by certified mail, return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property sent to the last known address, and each mortgagee, lienholder and each holder of a recorded lien against the affected property, as shown by the records of the county clerk in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing lien or other applicable instruments on file in the office of the county clerk.

(2) To all unknown owners by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front as practicable.

(3) In addition, the notice must be published in a newspaper of general circulation in the city on one occasion before the tenth day preceding the date fixed for the hearing.

(4) The notice shall contain the following:

a. 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 real property records of the county clerk where the real property is primarily situated.

b. An identification, which is not required to be a legal description of the building and the property on which it is located.

c. A description of the violation of the municipal standards that is present at the building.

d. A statement that the city will vacate, secure, remove, repair or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

e. A statement that the owner, lienholder, or mortgagee will be required to submit proof, at the hearing, of any work that may be required to comply with ~~the ordinance~~ this article and the time it will take to reasonably perform the work.

f. The time, date, and place of the hearing.

(5) Notice to a condominium association shall conform to the requirements of V.T.C.A., Local Government Code § 54.035, as may be amended.

(6) In addition, if the city files a notice in the official public records of real property where the real property is primarily situated pertaining to the hearing, as set forth above, the notice shall bind all subsequent holders of interest in the property, according to state law.

(7) All meetings of the commission shall be open be open to the public.

(Code 2005, § 14-325; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-326. Functions.

The building and standards commission panel may:

(1) Order the repair, within a fixed period, of buildings found to be in violation of an ordinance.

(2) Declare a building substandard in accordance with the powers granted by this article.

(3) Order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist.

(4) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the building and standards commission panel.

(5) Determine the amount and duration of the civil penalty the city may recover in accordance with V.T.C.A., Local Government Code § 54.017. A determination of the subject civil penalty is final and binding and constitutes prima facie evidence of such penalty in a court of competent jurisdiction in a civil suit brought by the city for final judgment and may be enforced by the city secretary filing with the district clerk of the appropriate county, a certified copy of the order of the building and standards commission panel establishing the amount and duration of the penalty.

(Code 2005, § 14-326; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-327. Standards for repair, vacation or demolition.

(a) *Ordered repaired.* If the alleged dangerous building can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this article, it shall first be ordered remedied or repaired. Demolition shall be regarded as a remedy of last resort.

(b) *Ordered vacated and secured.* If the dangerous building is in such a condition as to make it hazardous to the health, safety, or general welfare of its occupants or the public, it will be ordered vacated and secured.

(c) *Ordered demolished.* In any case where a dangerous building is 50 percent or more damaged or decayed or deteriorated in its structure, or 50 percent or more diminished in its value due to damage, decay, or deterioration, a presumption shall arise that the building cannot be repaired. Such presumption may be appropriately rebutted by the weight of the evidence. Value may be determined by comparing the most recent valuation for the building by the appropriate tax

appraisal district with the valuation of the building two years prior to the most recent valuation by the appraisal district. Principles of sound engineering practices shall be respected.

(d) *Settlement.* In all cases of settlement in which a responsible party enters into a voluntary demolition agreement to accept city serviced demolition, all settlement agreements shall be reviewed by the building and standards commission prior to execution by a duly authorized city official possessing settlement authority.

(Code 2005, § 14-327; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-328. Building and standards commission hearing; burden of proof.

In a public hearing to determine whether a building complies with the standards set out in this article the owner, lienholder, mortgagee, manager or occupant has the burden of proof to demonstrate the scope of work that may be required to comply with this article and the time it will take to reasonably perform the work. After a public hearing, if a building is found to be in violation of this article, the building and standards commission may:

(1) Enter on the minutes its findings that the building, or use thereof:

a. Is in violation of the minimum standards of this article in specified instances;

b. Is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;

c. Is structurally sound but is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;

d. Is structurally sound, boarded up, fenced, or secured but constitutes a danger to the public, or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building by vagrants, children, or other uninvited persons;

e. Violates the minimum standards of this article and is unoccupied or is occupied only by persons who do not have a right of possession; or

f. Is dangerously damaged or deteriorated or is likely to endanger persons or property.

(2) Make an order that:

a. The building be secured from unauthorized entry;

b. The building be repaired, removed or demolished;

c. The building be vacated in whole or in part;

d. Any or all occupants be relocated;

e. Such other requirements deemed reasonably necessary, including the abatement of any nuisances caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects, and rodents.

(3) Time limits.

a. An order shall require that a building shall be secured within 30 days.

b. An order shall require that a building must be repaired, removed or demolished within 30 days unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

c. If the building and standards commission allows the owner, lienholder, mortgagee, manager or occupant more than 30 days to repair, remove or demolish the building,

the building and standards commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, mortgagee, manager or occupant to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

d. The building and standards commission may not allow the owner, lienholder, mortgagee, manager or occupant more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order of the building and standards commission unless the owner, lienholder, mortgagee, manager or occupant:

1. Submits a detailed plan and time schedule for the work at the hearing; and
2. Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

e. If the building and standards commission allows the owner, lienholder, mortgagee, manager or occupant more than 90 days to complete any part of the work required to repair, remove or demolish the building, the building and standards commission shall require the owner, lienholder, mortgagee, manager or occupant to regularly submit progress reports to the building and standards commission to demonstrate that the owner, lienholder, mortgagee, manager or occupant complied with the time schedules established by the building and standards commission for commencement and performance of the work. The order may require that the owner, lienholder, mortgagee, manager or occupant appear before the hearing panel to demonstrate compliance with the schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceed $100,000.00 in total value, the commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing the building/structure. In lieu of a bond, the commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or guaranty from a third party approved by the commission.

f. In a public hearing to determine whether a building complies with the standards set out in this article, the owner, lienholder, mortgagee, manager or occupant has the burden of proof to demonstrate the scope of work that may be required to comply with this article and the time it will take to reasonably perform the work.

g. Should an owner fail to comply with an order of the building and standards commission to repair, remove or demolish a building, the commission may assess civil penalties against such owner upon notice and hearing. Such notice shall be given at least ten days prior to the hearing to determine whether or not civil penalties should be assessed.

(Code 2005, § 14-328; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-329. Procedure after hearing.

After the hearing before the building and standards commission, the city shall deliver a copy of the order by personal delivery or by certified mail, return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property and to any lienholder or mortgagee of record of the affected property. Within ten days after the date the order from the building and standards commission is issued the city will:

(1) File a copy of the order in the office of the city secretary; and

(2) Publish in the city's official newspaper 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 hearing or order; and

d. Instructions stating where a complete copy of the order may be obtained.

(Code 2005, § 14-329; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-330. Enforcement; expenses.

(a) If an owner does not take the action ordered by the building and standards commission within the allotted time the code enforcement official shall promptly mail by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building not previously served with the order.

(b) If the owner, lienholder, mortgagee, manager or occupant should fail to comply with an order of the building and standards commission within the allotted time, the building and standards commission may, in addition to any other actions or remedies in this article, authorize the city to:

(1) Vacate, secure, remove or demolish the building.

(2) Relocate the occupants at its own expense.

(3) Repair the building to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units.

(c) The building and standards commission may authorize the code enforcement official to secure a building that violates the minimum standards and is unoccupied or is occupied only by persons who do not have a right of possession before notice and hearing.

(d) The building and standards commission may assess all expenses incurred by the city pursuant to the foregoing provisions against the owner of the property and the property. Said assessment of expenses shall constitute a privileged lien on the property subordinate only to tax liens and previously recorded bona fide mortgage liens, unless the property is homestead protected by the state Constitution in accordance with V.T.C.A., Local Government Code chs. 214 and 54.

(e) The building and standards commission, by order, may assess and recover a civil penalty against the property owner in an amount not to exceed $1,000.00 per 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 per day for each violation, if the city proves:

(1) The property owner was notified of the requirements of this article and the owner's need to comply with the requirements; and

(2) After notification, the property owner committed an act in violation of this article or failed to take an action necessary for compliance with this article.

(f) The city council hereby finds and declares that the general administrative expenses of inspecting buildings, conducting hearings, issuing notices and orders, together with associated administrative functions, require the reasonable charge of $400.00 for each lot, adjacent lots under common ownership or tract of land. Such minimum charge is hereby established and declared to be the charge for such administrative expenses to be assessed in each instance where the building and standards commission determines that the building or structure is a dangerous building and the city has been required to proceed with notice and hearing as provided for in section 14-324, together with any additional charges as delineated in subsection (g) of this section. Notwithstanding any tabulation of recorded costs, a charge of $400.00 is hereby expressly stated to be the minimum charge, unless otherwise determined by the building and standards commission

due to the associated costs incurred by the city for reviewing records of ownership, liens, and providing notice and hearing. Further, the cost of securing, repairing, demolishing the building or buildings, either by the city or by persons doing so under contract with the city, shall be separately calculated and assessed in each instance where the city secures, repairs, demolishes or causes the demolition of a building or buildings pursuant to this article.

(g) Any case referred to the building and standards commission for consideration shall also have attached as costs all expenses incurred by the city to research ownership and mortgagee/lienholder interests, as such research is required by state law to fix enforceable orders and liens. The city shall certify all administrative expenses and costs of securing, repairing, or demolishing a building or buildings by the city or by persons doing so under contract with the city, as a charge which shall be assessed the owner thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of ten percent per annum until paid. The amount of the assessment shall be subject to the same procedure and sale in case of delinquency as provided by the laws of the state.

(h) If an order has been issued pursuant to this article for the repair, securing or demolition of a building or buildings and the city has let a contract for such work, and the building or buildings are subsequently repaired, secured or demolished by the owners prior to completion of the contracts let by the city, the administrative expenses and all costs for cancellation of the contract shall be certified as a charge which shall be assessed against the owners thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of ten percent per annum until paid.

(i) Upon a finding by the building and standards commission that a building is dangerously damaged or deteriorated, or is likely to endanger persons or property, the code enforcement official may place a placard notice on all dwelling units which the building and standards commission has determined to be dangerously damaged or deteriorated, or likely to endanger persons or property, with the following language:

DO NOT ENTER

UNSAFE TO OCCUPY IT IS A MISDEMEANOR TO OCCUPY THIS BUILDING, OR TO REMOVE OR DEFACE THIS NOTICE.

BUILDING OFFICIAL

CITY OF FRIENDSWOOD, TEXAS

(Code 2005, § 14-330; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-331. Offenses.

It is unlawful for the owner, occupant, lessee or manager of a building governed by this article to:

(1) Permit a building to be in violation of any provision of this article;

(2) Permit a building to exist in a dilapidated or substandard condition, or condition unfit for human habitation and a hazard to the public health, safety, and welfare;

(3) Permit a building to be unoccupied and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;

(4) Permit a building that is boarded up, fenced or otherwise secured to:

a. Constitute a danger to the public; or

b. Have inadequate means to secure the building from unauthorized entry or use;

(5) Permit a building to be occupied only by persons who do not have a right of possession and violate any provision of this article;

(6) Permit a building to exist in a dangerously damaged or deteriorated condition or in a condition likely to endanger persons or property;

(7) Without authority from the code enforcement official or the fire marshal, to remove or destroy a placard placed pursuant to section 14-330(i) by such officials; or

(8) Permit a person to occupy a building or room on which the code enforcement official or the fire marshal has placed a placard pursuant to section 14-330(i), or occupy a building or room on which the code enforcement official or the fire marshal has placed such a placard, absent express authorization of the subject official.

(Code 2005, § 14-331; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-332. Demolition regulations extended to cover site clearance, leveling and grading.

(a) In addition to the building regulations contained in this article, the regulations concerning the demolition of buildings and permits therefore are extended to cover and include related health, safety, and welfare requirements that:

(1) All debris must be removed from the property, all holes or depressions in the ground must be filled to grade level.

(2) The grading and leveling and clearance of the site of the demolition where the removal of structures makes such grading, leveling or clearance necessary, or where such grading, leveling or clearance is necessary to protect adjacent property for the public safety. The grading and leveling shall include appropriate fill to ensure proper drainage, and a permit shall be secured for any fill work if provided by this Code.

(3) All lumber, pipes and all other building materials must be removed from the property.

(4) All pipes and conduits must be removed from above grade and must be removed or sealed below grade.

(5) All piers, pilings, steps, foundations, and other appurtenances must be removed from the property.

(b) Each person having an interest in the building or control over the property on which the building stood prior to removal or demolition is individually responsible for completing this work.

(Code 2005, § 14-332; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-333. Disconnecting public utilities.

The code enforcement official may request that public utilities be disconnected in order that demolition or other nuisance abatement actions may be accomplished without delay in those cases where the structure is open, vacant, dilapidated, or subject to any of the conditions defining public nuisance in this article.

(Code 2005, § 14-333; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-334. Building and standards commission other remedies; V.T.C.A., Local Government Code chs. 54, 214 and 342.

(a) Nothing in this article shall preclude the city's pursuit of any and all other remedies allowed under civil and criminal law, or in equity, to address conditions which are treated in this article, under the theory of public nuisance and the abatement of dangerous buildings or structures. Neither shall the city be required, nor prohibited, to issue criminal citations before, after, or during any proceeding prescribed in this article.

(b) Specifically, in addition to the provisions in this article and remedies afforded under V.T.C.A., Local Government Code ch. 54, Municipal Regulation of Structures, the city further asserts full authority to exercise its right to remedy under all provisions of the V.T.C.A., Local Government Code, including, but not limited to, ch. 214, subchapter B, Municipal Health and Safety Ordinances; and V.T.C.A., Local Government Code ch. 342, Municipal Fire Protection, subchapter B, in prosecution of civil suits for enforcement, removal or destruction of buildings and structures, injunctive relief, and civil penalties to remedy conditions of public concern described in this article.

(Code 2005, § 14-334; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-335. Appeal to district court; lien priority.

(a) Any owner, lienholder, or mortgagee of record, aggrieved by an order of the building and standards commission under this article may file in district court a verified petition setting forth that the decision is illegal, in whole or part, and specifying the grounds of the illegality. The petition must be filed within 30 calendar days after the respective dates a copy of the final decision of the building and standards commission is mailed to them by first class mail, certified return receipt requested, or such decision shall become final as to each of them upon expiration of each such 30-calendar-day period.

(b) In any judicial contest challenging the city's rights under this article, the city shall pursue recovery of its attorney's fees as allowed by the Texas Local Government Code.

(c) An aggrieved party's appeal to the district court from an order of the building and standards commission shall, to the extent permitted by the law, be limited to reversing or affirming, in whole or part, the building and standards commission's decision. Accordingly, costs may not be allowed against the city.

(d) The lien securing payment of civil penalties or the costs of repairs, removal, or demolition, as the case may be, is inferior only to any previously and duly recorded bona fide mortgage liens, as prescribed by state law. The city's lien is superior to all other previously recorded judgment liens, and shall accrue interest at the rate of ten percent a year, or as allowed by law, from the date of assessment until paid in full.

(Code 2005, § 14-335; Ord. No. 2013-28, § 2, 9-9-2013)

Secs. 14-336--14-355. Reserved.

ARTICLE VIII. SWIMMING POOLS*

***State law reference**—Municipal authority concerning swimming pool enclosures, V.T.C.A., Local Government Code § 214.101; standards for public pools and spas, 25 Tex. Admin. Code § 265.181 et seq.

Sec. 14-356. Barrier requirements.

Every person in possession of land within the city, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool shall at all times maintain upon the lot or premises on which the swimming pool is located, and completely surrounding the swimming pool, lot or premises, a fence, wall or other solid structure designed to comply with the requirements of Appendix G of the 2012 International Residential Code for One- and Two-Family Dwellings.

(Code 1974, § 9-7; Code 1994, § 14-331; Code 2005, § 14-356; Ord. No. 2005-03, § 42, 1-17-2005; Ord. No. 2010-8, § 7, 4-19-2010; Ord. No. 2016-21, § 7, 5-2-2016)

Sec. 14-357. Plans to show compliance.

All plans submitted to the city for swimming pools to be constructed shall show compliance with the requirements of section 14-356, and the final inspection and approval of all pools

constructed shall be withheld until all requirements of such section shall have been complied with by the owner, purchaser under contract, lessee, tenant or licensee.

(Code 1974, § 9-8; Code 1994, § 14-332; Code 2005, § 14-357)

Secs. 14-358--14-387. Reserved.

ARTICLE IX. MISCELLANEOUS CODES*

***State law reference**—Home rule municipality may require buildings to comply with energy conservation standards, V.T.C.A., Local Government Code § 214.901; International Residential Code, V.T.C.A., Local Government Code § 214.212.

Sec. 14-388. International Energy Conservation Code adopted.

The 2012 Edition of the International Energy Conservation Code, as published by the International Code Council, Inc., a copy of which has been filed with the city secretary, is hereby adopted and made a part of this article.

(Code 1994, § 14-361; Code 2005, § 14-420; Ord. No. 2002-19, § 19, 11-18-2002; Ord. No. 2005-03, § 41, 1-17-2005; Ord. No. 2010-08, § 8, 4-19-2010; Ord. No. 2016-21, § 9(14-420), 5-2-2016)

~~**Sec. 14-421. Reserved.**~~

~~**Editor's note--**Ord. No. 2012-20, § 2, adopted Aug. 6, 2012, repealed § 14-421, entitled "International Property Maintenance Code adopted", which derived from: Code 1994, § 14-362; Ord. No. 2002-19, § 19, adopted Nov. 18, 2002; Ord. No. 2005-03, § 43, adopted Jan. 17, 2005; and Ord. No. 2010-08, § 8, adopted Apr. 19, 2010.~~

Sec. 14-389. International Residential Code for One- and Two-Family Dwellings adopted.

(a) The International Residential Code for One- and Two-Family Dwellings, 2012 Edition, including all appendices, as published by the International Code Council, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this article.

(b) The 2012 Edition of the International Residential Code for One- and Two-Family Dwellings is hereby amended as follows:

Section E3406.3, Minimum size of conductors, of the International Residential Code is hereby deleted and replaced with the following:

> E3406.3. *Minimum size of conductors.* The minimum size of conductors for feeders and branch circuits shall be No. 12 copper. The minimum size of service conductors shall be as specified in Chapter 37. The minimum size of Class 2 remote control, signaling and power-limited circuits conductors shall be as specified in chapter 43.

Section E3601.6.2, Service disconnect location, of the International Residential Code is hereby deleted and replaced with the following:

> E3601.6.2. *Service disconnect location.* The service disconnecting means shall be installed at a readily accessible location outside of a building nearest the point of entrance of the service conductors. Service disconnecting means shall not be installed in bathrooms. Each occupant shall have access to the disconnect serving the dwelling unit in which they reside.

(Code 1994, § 14-363; Code 2005, § 14-422; Ord. No. 2002-19, § 19, 11-18-2002; Ord. No. 2010-08, § 8, 4-19-2010; Ord. No. 2016-21, § 9(14-422), 5-2-2016)

Chapters 15--17

RESERVED

Chapter 18

BUSINESSES*

***State law reference**—Authority, V.T.C.A., Local Government Code § 215.0021 et seq.; home rule municipality may license any lawful business subject to police power, V.T.C.A., Local Government Code § 215.075.

ARTICLE I. IN GENERAL

Secs. 18-1--18-18. Reserved.

ARTICLE II. PEDDLERS, SOLICITORS, CANVASSERS, ITINERANT VENDORS*

***State law reference**—Authority to regulate hawkers and peddlers, V.T.C.A., Local Government Code § 215.031; regulation of sales and solicitation, V.T.C.A., Occupations Code ch. 1801 et seq.

DIVISION 1. GENERALLY

Sec. 18-19. 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:

Commodities, goods or *merchandise* means personal property of any nature whatsoever.

Crime involving moral turpitude means a conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation, the determination of which shall be made in accordance with V.T.C.A., Government Code § 411.122.

Itinerant vendor means any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in a business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale, or for the purpose of taking orders for the sale thereof, who displays, exhibits, sells, or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or who temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure, or vacant lot in the city upon which such business is to be operated or conducted. The term "itinerant vendor" shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Peddler means any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in the business in the city of selling, offering for sale, or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made at the time of sale. Collection of the sales price at time of sale or later is immaterial. The term "peddler" shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Religious, civic, or charitable solicitation means the seeking of support or contributions for political, religious, charitable or civic causes, including, without limitation, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

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

Solicitor or *canvasser* means any individual, firm, organization or corporation, as well as its representatives, agents and employees, who engages in the business in the city of taking orders for future delivery of commodities or services, or solicits subscriptions, orders, contributions, or any kind of support, for remuneration or gain, from house to house or from place to place. The term "solicitor" or "canvasser" shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Temporary business means the business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of 90 days. Definite arrangements would include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

(Code 1974, § 11-14; Code 1994, § 18-76; Code 2005, § 18-19; Ord. No. 91-6, § 2, 3-18-1991; Ord. No. 2005-02, § 1, 12-6-2004)

Sec. 18-20. Exemptions from article.

(a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.

(b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.

(c) Persons conducting religious, civic, or charitable solicitations are exempt from the provisions of this article.

(Code 1974, § 11-15; Code 1994, § 18-77; Code 2005, § 18-20; Ord. No. 91-6, § 3, 3-18-1991; Ord. No. 2005-02, § 2, 12-6-2004)

Sec. 18-21. Unlawful conduct.

It shall be unlawful for any peddler, solicitor, canvasser or itinerant vendor to:

(1) Conduct a business or related activities in the city without a valid registration certificate, as provided in this article.

(2) Conduct a business or related activities in the city without a valid identification card, as provided in this article.

(3) Conduct a business or related activities without visibly displaying the identification card issued to that individual.

(4) Alter a registration certificate or identification card issued by the city.

(5) Conduct a business or related activities within the city after the expiration of the registration certificate issued by the city.

(6) Conduct a business or related activities within the city different than described in the registration statement required by section 18-48.

(7) Provide false, inaccurate or misleading information in the registration statement.

(8) Use a vehicle in the conduct of a business or related activities not identified in the registration statement.

(9) Conduct a business from a location within the city not listed in the registration statement.

(10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise or services not listed and described in the registration statement.

(11) Sell, assign or transfer, or attempt to sell, assign or transfer, a registration certificate or identification card.

(12) Conduct a business authorized under a registration certificate issued pursuant to this article, on any public sidewalk, public street right-of-way, or other public property within the city, without written authorization from the city.

(13) Conduct a business during hours other than those permitted by this article.

(14) Conduct any activity for which a registration is required by this article at any building or dwelling, or upon any lot, tract or parcel of land, upon which is located, in a conspicuous location, any sign which gives notice that peddlers, solicitors, canvassers or itinerant vendors are prohibited. For the purpose of this section, any sign containing the words "no solicitors," "no solicitation," "solicitors prohibited," or any other phrase of similar meaning, shall constitute notice that peddlers, solicitors, canvassers and itinerant vendors are prohibited at such location.

(Code 1974, § 11-16; Code 1994, § 18-78; Code 2005, § 18-21; Ord. No. 91-6, § 4, 3-8-1991)

~~**Sec. 18-22. Penalty for violation of article.**~~

~~Any individual, firm, organization or corporation who shall violate any provision of this article shall, upon conviction thereof, be punished pursuant to section 1-14.~~

~~(Ord. No. 91-6, § 8, 3-8-1991; Code 1994, § 18-79)~~

Secs. 18-22--18-47. Reserved.

DIVISION 2. REGISTRATION

Sec. 18-48. Application.

(a) Prior to commencement of business and related activities by any peddler, solicitor, canvasser or itinerant vendor, a registration statement shall be completed on a form provided by the chief of police for that purpose, stating the following:

(1) Name of applicant (person who completes the registration statement).

(2) Height, weight, sex and hair color of applicant.

(3) A recent color or black and white photograph of the applicant, no larger than two inches by two inches.

(4) Social security number of applicant.

(5) Permanent home address, and local address, if different. Also, the primary e-mail address.

(6) Applicant's driver's license number and state of issuance.

(7) Name of individual, firm, company or organization represented, if any, and the permanent address and local address of any individual, firm, company or organization represented. Also, the primary e-mail address.

(8) The last four communities in which business was conducted by the individual, firm, company or organization represented shall be listed, with the period (beginning and ending month/year) business was conducted in each community listed.

(9) The following information:

a. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of this state, the corporation shall provide a certified copy of the charter or articles of incorporation; or

b. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of a state other than this state, the corporation shall provide a certified copy of its certificate of authority to do business in this state.

(10) Description, vehicle license number, and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.

(11) The name, height, weight, sex, hair color, social security number, permanent home address, primary e-mail address and driver's license number and state of issuance for each individual who will be involved in business under the registration certificate. If an individual has no driver's license, other identification shall be provided.

(12) A recent color or black and white photograph of each individual who is listed by the applicant, no larger than two inches by two inches.

(13) A description of the business and related activities to be conducted.

(14) Character and description of commodities, goods, merchandise or services to be offered for sale.

(15) Location or locations from which the business and other activities will be conducted.

(16) The term or period during which the business and activities will be conducted, not to exceed 180 days. Upon expiration of the 180-day period, or shorter period indicated by the applicant on the permit registration statement, the applicant must complete a new registration statement, in accordance with the requirements of this division, if renewal is desired.

(b) Every registration statement shall be accompanied by a registration fee ~~established~~ set by resolution and printed in Appendix D to this Code to compensate the city for the cost of administration of this division. A fee ~~established~~ set by resolution and printed in Appendix D to this Code shall be charged for replacement of a registration certificate.

(Code 1974, § 11-17(a)(1)--(9), (11)--(14), (17), (b); Code 1994, § 18-91; Code 2005, § 18-48)

Sec. 18-49. Identification of applicant, etc.

Prior to issuance of the registration certificate and identification cards provided for in this division, each individual whose name is listed on the registration certificate by the applicant shall present his driver's license or other identification in person to the chief of police for verification of the information provided by the applicant.

(Code 1974, § 11-17(a)(10); Code 1994, § 18-92; Code 2005, § 18-49)

Sec. 18-50. Statement of felony, etc.; convictions.

(a) Prior to issuance of the registration certificate and identification cards provided for in this division, the applicant and each individual whose name is listed by the applicant shall answer on the registration statement, or on an attachment thereto, whether he has ever been convicted of a felony or a misdemeanor involving moral turpitude.

(b) Prior to issuance of the registration certificate and identification cards provided for in this division, the applicant and each individual whose name is listed by the applicant shall, on the registration statement or attachment thereto, separately list and explain the nature of each and every conviction, if any, whether for felony or misdemeanor offenses, other than conviction for misdemeanor traffic law offenses, and give the state where the conviction occurred and the year of such conviction.

(Code 1974, § 11-17(a)(15), (16); Code 1994, § 18-93; Code 2005, § 18-50)

Sec. 18-51. Issuance of registration certificate.

(a) When all prerequisites of this division have been complied with, the chief of police shall initiate appropriate action to process the application. The chief of police shall make an appropriate investigation of an applicant, any person listed by the applicant, and any information provided.

The chief of police shall verify the information on the registration statement regarding the driver's license from the applicant's driver's license. If the applicant has no driver's license, other identification shall be provided.

(b) The chief of police shall issue a registration certificate to the applicant authorizing the sale, offer for sale, taking of orders for sale, and exhibition of commodities, goods, merchandise and services within 15 working days after the applicant has fully complied with all applicable provisions of this division, subject to denial of the registration certificate or identification card as outlined in section 18-57.

(Code 1974, §§ 11-17(a)(6), 11-18(a); Code 1994, § 18-94; Code 2005, § 18-51)

Sec. 18-52. Duration; renewal.

The registration certificate shall state the effective term, and the beginning and ending dates, not to exceed 180 days. Upon expiration, the registration certificate may be renewed upon full compliance with the requirements of this division.

(Code 1974, § 11-18(b); Code 1994, § 18-95; Code 2005, § 18-52)

Sec. 18-53. Transfer prohibited.

A registration certificate issued under the terms of this division shall be personal to the applicant and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of a registration certificate shall be grounds for revocation of the registration certificate.

(Code 1974, § 11-18(c); Code 1994, § 18-96; Code 2005, § 18-53)

Sec. 18-54. Identification cards.

(a) In conjunction with the issuance of a registration certificate, the chief of police shall issue identification cards for each individual whose name is listed in the registration statement. The identification card shall be laminated in clear plastic, shall have a metal clothing clip, shall contain the photograph of the holder, and shall state the holder's name, driver's license number and state of issuance, and height, weight, sex and hair color of the cardholder, the term of the permit, and the nature of the business and related activities. The card shall contain the following disclaimer of any endorsement by the city, to be placed in a conspicuous place upon such card: "The City of Friendswood, Texas, does not endorse the product, service or activity promoted by this cardholder."

(b) An identification card issued in accordance with this division shall be personal to the cardholder and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued thereunder.

(c) The chief of police shall issue up to five identification cards with the registration certificate without any additional or replacement identification cards upon payment to the city of a fee as ~~established~~ set by resolution and printed in Appendix D to this Code.

(Code 1974, § 11-19; Code 1994, § 18-97; Code 2005, § 18-54)

Sec. 18-55. Display of identification card.

While conducting business covered by the registration certificate, each identification card holder shall visibly display the identification card for identification by clipping the identification card to the clothing of the holder, so that the identification card is in plain view.

(Code 1974, § 11-20; Code 1994, § 18-98; Code 2005, § 18-55)

Sec. 18-56. Inspection.

A representative of the city designated by the chief of police shall have the authority to request admission to inspect, at a reasonable time without advance notice, a business operating under a registration certificate issued pursuant to this division, to determine whether the permit holder's business and related activities are as represented in the registration statement. If such admission is denied, or if the chief of police deems it advisable, the chief of police shall have the authority to obtain a warrant, in accordance with applicable law, for the purpose of allowing the inspection.

(Code 1974, § 11-21; Code 1994, § 18-99; Code 2005, § 18-56)

Sec. 18-57. Denial of registration certificate or identification card to specified individuals.

(a) The issuance of a registration certificate may be denied if:

(1) Any violation of this division or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for has been committed by any individual or individuals who would operate under such registration certificate;

(2) False, inaccurate, incomplete or misleading information is contained in the registration statement; or

(3) The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed against him.

(b) Conviction of a felony or crime involving moral turpitude shall be grounds for the denial of issuance to that individual of an identification card, and/or the removal from the registration statement on file with the city of any such person so convicted, and/or the denial of the right to conduct the business covered by such certificate by any person so convicted.

(c) Notice of a denial of a registration certificate or denial of an identification card to any individual shall be given in writing, specifically setting forth the reason for such denial and what action will be required before a registration certificate can be issued. Such notice shall be served in person, or by depositing the notice in the United States Mail, addressed to the applicant's local address, if provided, or to the permanent business or home address listed on the registration statement.

(Code 1974, § 11-22; Code 1994, § 18-100; Code 2005, § 18-57; Ord. No. 91-6, § 5, 3-8-1991)

State law reference—Limitations on denying, revoking, etc., licenses, V.T.C.A., Occupations Code § 53.001 et seq. ~~Vernon's Ann. Civ. St. arts. 6252-13c, 6252-13d.~~

Sec. 18-58. Hours.

Business conducted in accordance with this division shall be permitted only between the hours of 9:00 a.m. and 9:00 p.m.

(Code 1974, § 11-23; Code 1994, § 18-101; Code 2005, § 18-58; Ord. No. 91-6, § 6, 3-8-1991)

Sec. 18-59. Revocation of certificate.

(a) The city may revoke a registration certificate if:

(1) Any violation of this division, or any violation of other city ordinances or laws relating to the business or related activities covered by the registration certificate is committed by any individual or individuals operating under the registration certificate during the original term or renewal thereof;

(2) False, inaccurate, incomplete or misleading information is contained in the registration statement; or

(3) Any certificate holder is convicted of a crime involving moral turpitude.

(b) If a certificate is revoked pursuant to this section, the period of revocation shall extend until the date the certificate so revoked would have otherwise expired. Any itinerant vendor, peddler, solicitor or canvasser having two certificates revoked within any 24-month period shall be ineligible to receive a certificate for a period of one year following the date of the second revocation.

(Code 1974, § 11-24; Code 1994, § 18-102; Code 2005, § 18-59; Ord. No. 91-6, § 7, 3-8-1991)

Sec. 18-60. Appeal of denial or revocation of registration certificate or identification card.

An applicant or other individual who has been denied a registration certificate or identification card, or who has had a registration certificate revoked, may appeal that action to the city council by submitting a letter to the city secretary's office within ten days of the action complained of. A hearing on the denial will be scheduled for the next regular city council meeting. The city council will render its decision on the appeal at the meeting during which the appeal is considered.

(Code 1974, § 11-25; Code 1994, § 18-103; Code 2005, § 18-60)

Chapters 19--21

RESERVED

Chapter 22

CIVIL EMERGENCIES*

***State law reference**—Emergency Management, V.T.C.A., Government Code § 418.001 et seq.; false reports of emergencies, V.T.C.A., Penal Code § 42.06; interference at scene of emergency, V.T.C.A., Penal Code § 38.158; tampering, etc., with emergency equipment, V.T.C.A., Penal Code § 28.03.

ARTICLE I. IN GENERAL

Sec. 22-1. 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:

Authorized person means a person directed or commissioned by any official or body of officials to act in a given capacity.

Emergency means any fire, explosion, accident, riot, natural or manmade disaster, crime or suspected crime.

Emergency vehicle means any vehicle owned or being used by a city, county, state, federal agency or volunteer fire department responding to any emergency and designating or displaying by siren, lights or other signs that it is such a vehicle.

Unauthorized person means any person not an authorized person as defined in this section.

(Code 1974, § 5-1; Code 1994, § 22-1; Code 2005, § 22-1)

Sec. 22-2. Unauthorized use of emergency apparatus.

It shall be unlawful for any unauthorized person to operate any emergency apparatus of the police department, fire department or other official or officially recognized emergency organization.

(Code 1974, § 5-5; Code 1994, § 22-2; Code 2005, § 22-2)

State law reference—Criminal mischief, V.T.C.A., Penal Code § 28.03.

Secs. 22-3--22-22. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT*

***State law reference**—Emergency management, V.T.C.A., Government Code § 418.001 et seq.; municipal programs, V.T.C.A., Government Code § 418.103; local planning required, 37 Tex. Admin. Code § 7.12; local government responsibility, 37 Tex. Admin. Code § 7.23; requesting state assistance, 37 Tex. Admin. Code § 7.24; local government control affirmed, 37 Tex. Admin. Code § 7.26; relating to emergency management, Executive Order RP 32 (January 28, 2004).

Sec. 22-23. Exemption from liability for damages resulting from activities promulgated by this article.

(a) *City.* 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 results of such activity.

(b) *Individual.* Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall, together with his successors in interest, if any, not be civilly liable for the death of or injury to any

persons 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 1974, § 5-30; Code 1994, § 22-26; Code 2005, § 22-23)

~~**State law reference**—Similar provisions, V.T.C.A., Health and Safety Code § 418.174.~~

~~**Sec. 22-24. Penalty for violation of article.**~~

~~Convictions for violations of the provisions of this article shall be punishable by a fine not to exceed $500.00.~~

~~(Code 1974, § 5-36; Code 1994, § 22-27)~~

~~**State law reference**—Penalty authorized, V.T.C.A., Government Code § 418.173.~~

Sec. 22-24. Authority to participate in countywide emergency management plan.

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in the county in the formation of an emergency management council for the county and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as such program may affect the city.

(Code 1974, § 5-27; Code 1994, § 22-28; Code 2005, § 22-25)

Sec. 22-25. Emergency management director.

(a) *Office created*. There exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

(b) *Responsibilities generally*. The emergency management director shall be responsible for conducting a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in subsection (d) of this section. He may delegate authority for execution of these duties to the emergency management coordinator, but ultimate responsibility for such execution shall remain with the director.

(c) *Powers and duties generally*. The powers and duties of the emergency management director shall include an ongoing survey of actual or potential major hazards which threaten life and property within the city, and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur. As part of his responsibility in hazard mitigation, the director shall supervise the development of an emergency management plan for the city and shall recommend that plan for adoption by the city council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency plan. The powers of the director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the city council at its next meeting. The duties of the director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for in this article, as well as a continuing study of the need for amendments and improvements in the emergency management plan.

(d) *Duties and responsibilities enumerated*. The duties and responsibilities of the emergency management director shall include the following:

(1) The direction and control of the actual disaster operations of the city emergency management organizations as well as the training of emergency management personnel.

(2) The determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(3) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal or other emergency management organizations.

(4) The marshaling, after declaration of a disaster as provided for in subsection (c) of this section, 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.

(5) The issuance of all necessary proclamations as to the existence of a disaster and immediate operational effectiveness of the city emergency management plan.

(6) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property in the city. Such rules and regulations shall be filed in the office of the city secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.

(7) The 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 such county for the countywide coordination of emergency management efforts.

(8) The 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.

(9) The authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(Code 1974, § 5-25; Code 1994, § 22-29; Code 2005, § 22-26)

Sec. 22-26. Emergency management coordinator.

An emergency management coordinator may be appointed by and serve at the pleasure of the emergency management director.

(Code 1974, § 5-26; Code 1994, § 22-30; Code 2005, § 22-27)

Sec. 22-27. Organization.

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the emergency management director in the emergency management plan, as well as all 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. Such plan shall set forth the form of the organization; establish and designate divisions and functions; assign tasks, duties and powers; and designate officers and employees to carry out the provisions of this article. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency management and of the federal government.

(Code 1974, § 5-28; Code 1994, § 22-31; Code 2005, § 22-28)

Sec. 22-28. Orders, rules and regulations to supersede existing ordinances.

(a) 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.

(b) This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.

(Code 1974, § 5-29; Code 1994, § 22-32; Code 2005, § 22-29)

Sec. 22-29. Expenditure of public 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.

(Code 1974, § 5-31; Code 1994, § 22-33; Code 2005, § 22-30)

Sec. 22-30. Oath of personnel assigned functions or responsibilities.

Each employee or any individual that is assigned a function or responsibility under this article shall solemnly swear or affirm to support and defend the Constitution of the United States, laws of the state and the ordinances of the city.

(Code 1974, § 5-34; Code 1994, § 22-34; Code 2005, § 22-31)

Sec. 22-31. Obstruction of emergency management personnel prohibited.

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

(Code 1974, § 5-32; Code 1994, § 22-35; Code 2005, § 22-32)

Sec. 22-32. Impersonating emergency management personnel prohibited.

It shall 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.

(Code 1974, § 5-33; Code 1994, § 22-36; Code 2005, § 22-33)

Sec. 22-33. Simulation of warning signals.

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.

(Code 1974, § 5-35; Code 1994, § 22-37; Code 2005, § 22-34)

Secs. 22-34--22-56. Reserved.

ARTICLE III. ASSISTANCE TO COUNTIES AND OTHER CITIES*

***State law reference—**Law enforcement assistance in civil emergencies, V.T.C.A., Local Government Code § 362.001 et seq.

Sec. 22-57. Interlocal agreement adopted.

The city hereby adopts in all respects the provisions of V.T.C.A., Local Government Code § 362.001 et seq., regarding law enforcement officers interlocal assistance.

(Code 1974, § 5-9; Code 1994, § 22-61; Code 2005, § 22-57)

Sec. 22-58. Authority of city officials to furnish assistance.

The city, acting by and through its mayor, mayor pro tem or, in their absence or inability to act, the city manager, may send or direct any of its regularly employed law enforcement officers to assist any county or other municipality, when a request is received for assistance from the mayor or other officer authorized to declare a state of civil emergency in such other municipality or county, representing that there exists in such county or other municipality a need for additional law enforcement officers to protect the health, life and property of such county or other

municipality and its inhabitants, and the visitors thereof, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat by three or more persons acting together or without lawful authority, or during a time of natural or manmade calamity.

(Code 1974, § 5-10; Code 1994, § 22-62; Code 2005, § 22-58)

State law reference—Similar provisions, V.T.C.A., Local Government Code § 362.002.

Sec. 22-59. Rights and duties of officers.

When law enforcement officers of the city are sent to another municipality or a county, they shall be in all things subject to the provisions of the state law adopted by section 22-57. Such officer shall be considered a peace officer of the county or other municipality under the command of the law enforcement officer therein who is in charge in that municipality or county and, as provided by such state law, shall be vested with all the powers of a regular law enforcement officer in the county or other municipality. Such law enforcement officers of the city shall be considered under the terms of such state law and shall be entitled to the same wage, salary, pension and all other compensations while performing police duties outside of the territorial limits of the city as though the same services were being rendered in the city. The city shall pay to the officers such wages, salary, pension and other benefits, together with medical, travel, food, lodging and other expenses incurred on account of performing services outside of the territorial limits of the city, and the city shall be reimbursed by the county or other municipality requesting the services out of which such payments and expenses arose, as is provided by state law.

(Code 1974, § 5-11; Code 1994, § 22-63; Code 2005, § 22-59)

State law reference—Similar provisions, V.T.C.A., Local Government Code § 362.003.

Secs. 22-60--22-76. Reserved.

ARTICLE IV. PRICE CONTROL MEASURES*

***State law reference**—Price controls in local emergency plans, V.T.C.A., Government Code § 418.106.

Sec. 22-77. Exceeding prevailing prices prohibited.

It shall be unlawful for any vendor, merchant, or other person selling or offering for sale, whether retail or wholesale, goods or services at a rate or price in excess of the rates or prices prevailing in the city, during the duration of a state of emergency or subsequent recovery period in which the county or the city has been declared a disaster area.

(Code 1994, § 22-81; Code 2005, § 22-77; Ord. No. 2000-27, § 2, 8-21-2000)

Sec. 22-78. Exceeding prevailing lease rates prohibited.

It shall be unlawful for any property owner, landlord, or other person to lease any building or structure, or part thereof, intended for human habitation, at a rate, price, or term in excess of those rates, prices, or terms which were in effect the week prior to any natural disaster, flood, hurricane, or tropical storm, or declaration of emergency or disaster area of the county or the city.

(Code 1994, § 22-82; Code 2005, § 22-78; Ord. No. 2000-27, § 3, 8-21-2000)

Sec. 22-79. Exception.

This section does not prevent the seller of consumer goods from charging an amount in excess of the average retail price, if such higher price is the direct result of, and limited to, any increased cost for the consumer goods for the manufacturer, distributor, or wholesaler to the seller. In such instances, only the actual cost increase per item from the manufacturer, distributor, or wholesaler can be added to the average retail price.

(Code 2005, § 22-79; Ord. No. 2000-27, § 4, 8-21-2000)

~~**Sec. 22-80. Penalty.**~~

~~Any person who shall violate any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed $2,000.00. Each day of violation shall constitute a separate offense.~~

~~(Code 1994, § 22-84; Ord. No. 2000-27, § 5, 8-21-2000)~~

Chapters 23--25

RESERVED

Chapter 26

ENVIRONMENT*

*State law reference—Sanitation and environmental quality, V.T.C.A., Health and Safety Code ch. 341 et seq.; natural resources, V.T.C.A., Natural Resources Code ch. 1 et seq.; parks and wildlife, V.T.C.A., Parks and Wildlife Code ch. 1 et seq.

ARTICLE I. IN GENERAL

Secs. 26-1--26-18. Reserved.

ARTICLE II. AIR POLLUTION*

*State law reference—Municipal authority to abate air pollution in a matter consistent with state law and rules of Texas Natural Resource Conservation Commission, V.T.C.A., Health and Safety Code § 382.113.

DIVISION 1. GENERALLY

Secs. 26-19--26-39. Reserved.

DIVISION 2. SMOKING TOBACCO*

*State law reference—Smoking tobacco in certain public places, V.T.C.A., Penal Code § 48.01.

Sec. 26-40. Smoking in city buildings.

(a) *Prohibition*. It shall be unlawful for any person to be in possession of a burning tobacco product, or to smoke tobacco, in a building owned or leased by the city within the corporate boundaries of such city.

(b) *Defenses to prosecution*.

(1) It is a defense to prosecution under this section that the building in which the offense takes place does not have prominently displayed therein a reasonably sized notice that smoking is prohibited by city ordinance in such building and that an offense is punishable as a misdemeanor ~~provided in section 1-14~~.

(2) It is a defense to prosecution under this section that the building in which the offense takes place is not equipped with facilities for extinguishment of smoking materials in a readily accessible location.

(c) *Exception*. It is an exception to this section that the person in possession of the burning tobacco product or smoking the tobacco product does so exclusively within an area designated for smoking tobacco.

(Code 1974, § 2-8; Code 1994, § 26-36; Code 2005, § 26-40)

Secs. 26-41--26-68. Reserved.

ARTICLE III. SANITARY NUISANCES*

*State law reference—Nuisances, V.T.C.A., Health and Safety Code § 341.011 et seq.; home rule municipal authority to enact more stringent health regulations than those of state, V.T.C.A., Health and Safety Code § 341.081; civil enforcement, V.T.C.A., Health and Safety Code § 341.092; regulation of nuisances by home rule municipality, V.T.C.A., Local Government Code § 217.042; persons not to permit abandoned property to become public health nuisance, V.T.C.A., Health and Safety Code § 341.013(e).

Sec. 26-69. Nuisance defined.

Whatever is dangerous to human life or health, and whatever renders the ground, the water, the air or any food or drink unwholesome and a hazard to human life and health is hereby declared to be a nuisance.

(Code 1974, § 9-1; Code 1994, § 26-56; Code 2005, § 26-69)

Sec. 26-70. Specific conditions.

The conditions listed in this section, in addition to any things or conditions declared elsewhere in this Code to be nuisances, are declared to be nuisances, and as such are to be abated pursuant to section 26-127. The person causing, permitting or suffering any of the conditions listed in this section upon his premises or in any building occupied or controlled by him or in or upon any street, alley, sidewalk or gutter immediately adjacent to such premises shall, upon conviction, be fined for a misdemeanor violation ~~as provided in section 1-14~~.

(1) Any building, erection or cellar or any part of such building, erection or cellar which is overcrowded, or not provided with adequate means of ingress or egress, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted.

(2) All cellars, vaults, drains, pools, privies, sewers, yards, grounds or premises which have for any cause become foul, noxious, or offensive or injurious to health, or unpleasant to adjacent residences or to persons passing such premises.

(3) All carcasses, all decaying flesh, fish, fowl, fruit or vegetables, all deposits of manure, all flesh of any kind or description whatever, all filthy or offensive water or slops in any private yard or premises, and all other unwholesome substances when thrown upon or conducted into or upon any street, alley, public ground or enclosure in such a manner as to render such substances unwholesome and offensive or liable to become unwholesome or offensive.

(4) All privies that are offensive from use; all markets, cellars, laundries, stores or other buildings or places which are not kept clean and free from filthy and unwholesome substances and odors; all deposits or substances that are offensive or liable to engender disease.

(5) Every trade, business or occupation injurious to the health or comfort of persons who reside in the vicinity, and any can or receptacle containing water or slops suffered to become stagnant or offensive or unwholesome from any cause.

(6) The act of depositing filth or any foul, offensive, noxious or injurious substance upon any sidewalk, street, alley, public thoroughfare or other public place.

(7) The act of sweeping or depositing any trash, paper or rubbish into any street, alley, public thoroughfare or other public place and allowing such trash, paper or rubbish to remain in such place longer than six hours.

(8) The act of burning any hair, leather, rags or any other substances of any kind which may cause or produce an offensive smell, smoke or odor capable of annoying persons living in the vicinity or persons passing along the streets, alleys or public thoroughfares.

(9) The act of defecating or urinating upon the streets, alleys or public grounds, or in any place that may be seen from a private residence or by persons passing along the streets, alleys or public thoroughfares.

(10) The act of expectorating or spitting of mucous, or saliva, or saliva mixed with tobacco, or secretions from the nose or air passages, or the remains of any chewed or partly chewed tobacco or snuff, or the remnant of any partially chewed or smoked cigar or cigarette upon any sidewalk, public building or public vehicle, place or building or public resort within the city.

(11) The act of hauling, carrying or transporting any meat or slaughtered or dead animals or fish through the streets of the city without having such meat, slaughtered or dead animals or fish entirely covered, screened and protected from dust and public view.

(12) The act of scattering or distributing any advertisements, circulars, handbills, printed or written announcements, or paper of like character, or any medicines, upon the streets, sidewalks, alleys or within public buildings or grounds within the limits of the city.

(13) The act of the owner or possessor of any animal which has died within the city failing to have the carcass of such animal removed within 18 hours after the death of such animal.

(14) The act of throwing from any opening in, or carrying from, any dwelling or place of abode, any night soil, feces, urine or filthy or unclean water into or upon any alley, street or sidewalk or into or upon adjacent property not owned by the principal.

(15) The act of conducting or causing to be conducted into any alley or gutter of wastewater from any sink or tank or any source of water supply which may produce any pool of stagnant water in such alley or gutter.

(16) The act of dumping upon and removing from a sidewalk, street or alley any coal or like material in a dry state, in such a manner that annoying or offensive dust is generated from such material, or the act of leaving any coal, dust or like material upon any sidewalk, street or alley at or near the place where such coal or material was deposited or from which it was removed.

(17) The act of throwing any glass, tin, plastic ware, crockery or rubbish into or upon any sidewalks, streets, alleys, public thoroughfares, commons, drains or gutters.

(18) Any unwholesome food or liquor, or adulterated medicine, and all cattle, horse or hog pens, stables or enclosed areas in which any cattle, horses or hogs may be kept or confined, which may from use have become offensive.

(19) Any granaries, barns, elevators or other premises where rats are bred or harbored.

(20) Any noxious, foul or putrid liquids, or substances likely to be noxious, foul, offensive or putrid, discharged, placed, thrown or conducted into or upon any street, alley, public ground or common.

(21) The act of wrongfully casting, throwing or depositing any filth, substance or thing into any private or public well or cistern.

(22) The act of erecting or maintaining buildings or structures with roofs or eaves projecting beyond the property line or shedding water upon any property line or shedding water upon any property other than that belonging to the owner of such building or structure.

(23) Any other act or thing done or suffered within the city which may cause interference with the enjoyment by any member of the community, or any person, who may thereby be deprived of his right to be free from offensive or unpleasant odors or vapors, and to breathe fresh air and to be free from the sounds or noises which generally disturb members of the community.

(Code 1974, § 9-2(1)--(9), (11)--(17), (19), (20), (22)--(26); Code 1994, § 26-57; Code 2005, § 26-70)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code §§ 341.011, 341.037; rodent control, V.T.C.A., Health and Safety Code § 341.018; drinking water, V.T.C.A., Health and Safety Code § 341.031.

Sec. 26-71. Notice to abate.

Notice to abate a nuisance described in section 26-70 shall be sent in the same manner as provided in section 26-126.

(Code 1974, § 9-3; Code 1994, § 26-58; Code 2005, § 26-71)

State law reference—Abatement of nuisance, V.T.C.A., Health and Safety Code § 342.006.

Sec. 26-72. Abatement by city.

If the owner receiving notice under section 26-71 to abate a nuisance shall fail or refuse to comply with any of the provisions of section 26-69 or 26-70, the condition shall be abated pursuant to the procedure in section 26-127.

(Code 1974, § 9-3; Code 1994, § 26-59; Code 2005, § 26-72)

State law reference—Abatement of nuisances, V.T.C.A., Health and Safety Code § 342.006 et seq.

Sec. 26-73. Privies.

Privies are prohibited in the city.

(Code 1974, § 9-2(21); Code 1994, § 26-60; Code 2005, § 26-73)

Secs. 26-74--26-104. Reserved.

ARTICLE IV. GRASS, WEEDS, BRUSH, RUBBISH*

***State law reference—**Weeds and unsanitary conditions, V.T.C.A., Health and Safety Code § 342.004.

DIVISION 1. GENERALLY

Sec. 26-105. 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:

Any and all other objectionable, unsightly or unsanitary matter or conditions of whatever nature means and includes all cultivated and uncultivated vegetable growth, objects, matter, and conditions not included within the meaning of the other terms defined in this section, which are liable to produce or tend to produce an unhealthy, unwholesome, unsightly or unsanitary condition to the premises within the general locality where the same are situated, and shall also include any species of ragweed or other vegetable growth which might or may tend to be unhealthy to individuals residing within the general locality of where the same are situated.

Brush means and includes all trees or shrubbery under seven feet in height which are not cultivated or cared for by persons owning or controlling the premises.

Grass or *weeds* means and includes all cultivated and all rank and uncultivated vegetable growth or matter which has grown to more than nine inches in height or which, regardless of height, is liable to become an unwholesome or decaying mass creating an unsanitary condition or a harborage or breeding place for mosquitoes, rodents, or vermin, or other disease-carrying pests. The term "grass" or "weeds" shall be deemed to not include cultivated and uncultivated vegetation on property for which an agricultural exemption has been issued for ad valorem tax purposes by the appraisal district of the county in which such property is located if such cultivated or uncultivated vegetation does not violate section 26-106(b).

Rubbish means and includes all refuse, rejected tin cans, old vessels of all sorts, useless articles, discarded clothing and textiles of all sorts, and in general all non-decayable waste and all other things usually included within the meaning of such term.

(Code 1974, § 8-37; Code 1994, § 26-81; Code 2005, § 26-105; Ord. No. 2006-26, § 1, 11-20-2006; Ord. No. 2010-45, § 2, 1-10-2011)

Sec. 26-106. Public nuisance declared.

(a) Whenever grass, weeds, brush, rubbish and all other objectionable, unsightly and unsanitary matter of whatever nature shall exist, covering or partly covering the surface of any lot or parcel of land situated within the city, or when any such lot or parcel of land, as aforesaid, shall have the surface thereof filled or partly filled with holes or be in such condition that such lot or

parcel of land holds or is liable to hold stagnant water therein, or, if from any other cause, such lot or parcel of land shall be in such condition as to be liable to cause disease or produce, harbor or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, such lot or parcel of land shall constitute and is hereby declared to constitute a public nuisance. The prompt abatement of such nuisance is hereby declared to be a public necessity. Such lot or parcel of land, in addition to the grounds within its respective boundaries, shall be held to include, but shall not be limited to:

(1) All lots or parcels of land lying and being adjacent to and extending beyond the property line of any such lot or parcel of land to the curbline of adjacent streets where a curbline has been established or to the edge of pavement where no curbline has been established on adjacent streets;

(2) To the center of adjacent unimproved rights-of-way and alleys; and

(3) The area between a fence, wall or barrier and within any abutting drainage channel easement to the top of such channel closest to the property.

(b) With respect to uncultivated agricultural properties or tracts of land that contain no structures used or designed for human occupancy for residential or commercial purposes, a nuisance is not declared until grass and weeds grow to a height greater than 24 inches within 50 feet from any adjacent property under different ownership or from any street right-of-way. However, on cultivated properties where the distance between the growing crop and abutting property under different ownership or from a street right-of-way is less than 50 feet, a nuisance is not declared until grass and weeds grow to a height greater than nine inches.

(c) It is unlawful for any person to permit or allow any weeds, filth or rubbish of any kind to remain on any sidewalk in front of or at the side of any premises owned by such person, or in the street, to the middle of, in front of or at the side of any premises owned or controlled by such person, or upon any alley or drainage easement that may be adjacent to any lots owned or controlled by such person.

(Code 1974, §§ 8-36, 9-2(10); Code 1994, § 26-82; Code 2005, § 26-106; Ord. No. 2010-45, § 3, 1-10-2011)

Secs. 26-107--26-125. Reserved.

DIVISION 2. ABATEMENT

Sec. 26-126. Required; notice to property owner.

(a) Whenever the existence of any nuisance, as described in this division, on any lot or parcel of land situated within the city shall come to the knowledge of the city manager or his/her designee, and the city intends to utilize the subsequent provisions of this division to correct or remove the condition and assess the cost against the property, a notice identifying such property shall be issued to the person owning such property to correct, remedy or remove the condition within ten calendar days after such notice and it shall be unlawful for any person to fail to comply with such notice. The notice shall be given personally to the owner in writing, by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, or, if personal service cannot be obtained, then by publication at least one time in a newspaper of general circulation within the city, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice shall direct the abatement of such nuisance by a method or methods appropriate for such nuisance and within ten calendar days from the service of such notice. The notice shall further state that, in default of the performance of the conditions required by this section, the city may issue a citation or a series of citations to effect the nuisance abatement, or, at the city's discretion, at once cause the work to be done and pay therefor and

charge the cost and expense incurred in doing or having such work done, or improvements made, to the owner of such property, and fix a lien thereon as provided in this division.

(b) If the city mails a notice to a property owner in accordance with this division, 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.

(c) In a notice provided under this division, the city will include in said notice that if the property owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the property owner's expense and assess the expense against the property. If a violation covered by a notice under this section occurs within the one-year period, and the city has not been informed in writing by the property owner of any ownership changes, then the city without notice may take any action permitted in this section and assess its expenses as hereinafter provided.

(Code 1974, § 8-38; Code 1994, § 26-96; Code 2005, § 26-126; Ord. No. 91-29, § 1, 10-21-1991; Ord. No. 2010-45, § 4, 1-10-2011)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.006 et seq.

Sec. 26-127. Abatement by city.

In the event of the failure, refusal or neglect of the owner or occupant of any premises or property to cause a nuisance to be removed or abated in the manner and within the time provided in section 26-126 after the issuance of a citation or a series of citations, it shall be the duty of the city manager or his/her designee to cause the grass, weeds, brush, rubbish or other unsanitary matter or condition constituting a nuisance to be promptly and similarly abated, in a reasonable and prudent manner, at the expense of the city. The city manager or his/her designee shall carefully compile the cost of such work done and improvements made in abating such nuisance and shall charge such costs against the owner of the premises.

(Code 1974, § 8-39; Code 1994, § 26-97; Code 2005, § 26-127; Ord. No. 2010-45, § 5, 1-10-2011)

Sec. 26-128. Costs of abatement; filing of lien.

The city council hereby finds and declares that the general overhead of administrative expenses incurred from inspecting, locating the owner, issuing notice, issuing citations, reinspecting, ordering work done, and submission of billing, together with all necessary incidents of same, require a reasonable charge set by resolution and printed in Appendix D to this Code for each lot, tract or parcel of land, and such charge is hereby established and declared to be an expense of such work and improvement. In addition, if the city files a lien against such lot, tract or parcel of land to secure payment for such abatement as provided in this division, an additional charge set by resolution and printed in Appendix D to this Code ~~of not less than $50.00~~ shall be added to reimburse the city for its expense in causing the preparation and filing of such lien, such expense hereby being found and determined by the city council as representing the actual cost to the city in having such service performed.

(Code 1974, § 8-39; Code 1994, § 26-98; Code 2005, § 26-128; Ord. No. 90-30, § 1, 11-5-1990; Ord. No. 2010-45, § 5, 1-10-2011)

Sec. 26-129. Statement of expenses; institution of lien.

(a) The city council may assess expenses incurred under section 26-128 against the real estate on which the work is done or improvements made.

(b) To obtain a lien against the property, the mayor must file a statement of expenses with the county clerk of the county in which the property is located. The lien statement must state the name of the owner, if known, and the legal description of the property. A signature on a lien

statement may be a facsimile signature as defined by V.T.C.A., Government Code § 618.002. The lien attaches upon the filing of the lien statement with the county clerk.

(c) The lien obtained by the city council is security for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the city.

(d) The lien is inferior only to:

(1) Tax liens; and

(2) Liens for street improvements.

(e) The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(g) The remedy provided by this section is in addition to the remedy provided for a misdemeanor violation.

(h) The city council may foreclose a lien on property under this division in a proceeding relating to the property brought under V.T.C.A., Tax Code ch. 33, subch. E (V.T.C.A. Tax Code § 33.91 et seq.).

~~After receiving from the city manager or his/her designee a compilation of the cost of the work done pursuant to this article and after charging the expenses against the owner of the premises, the mayor shall certify a statement of such expenses and the city secretary shall file such statement with the county clerk of the county in which such property is located. Upon the filing of such statement with the county clerk, the city shall have a privileged lien upon the land described therein and upon which the improvements have been made, second only to tax liens and liens for street improvements, to secure the expenditure so made, and ten percent interest on the amount from the date of such payment. For any such expenditures and interest, as aforesaid, suit may be instituted by the city attorney and recovery and foreclosure had in the name of the city; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements. Upon payment of the full charge assessed against any property, pursuant to the procedure set forth in this section, the mayor shall be authorized to execute, for and in behalf of the city, a written release of the lien mentioned in this section, such written release to be on a form prepared and approved in each case by the city attorney.~~

(Code 1974, § 8-39; Code 1994, § 26-99; Code 2005, § 26-129; Ord. No. 2010-45, § 6, 1-10-2011)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.007.

Sec. 26-130. City may contract for abatement.

The city shall have the right to award any quantity of work authorized under section 26-127 to a general contractor whose bid shall be accepted by the community development department, or if the amount exceeds $50,000.00, by the city council as the lowest and best secured bid for the doing of the work mentioned in this division.

(Code 1974, § 8-40; Code 1994, § 26-100; Code 2005, § 26-130; Ord. No. 2010-45, § 7, 1-10-2011)

Sec. 26-131. Summary abatement.

In addition to the remedies prescribed by this division, and cumulative thereof, if it shall be brought to the attention of the city council and the city council determines that any such nuisance is likely to have an immediate adverse effect upon the public health, comfort or safety, the city council may, by appropriate resolution or motion, order such nuisance summarily abated by the city in a reasonably prudent manner.

(Code 1974, § 8-42; Code 1994, § 26-101; Code 2005, § 26-131)

Sec. 26-132. Preparation and mailing of notices and bills.

All notices to cut grass, weeds or brush or to abate any nuisance under this division, and all statements evidencing costs to the city of cutting weeds or abatement of nuisances, upon the failure, refusal or neglect of the owner to cut grass, weeds or brush or to abate the nuisance after having been notified to do so, as well as all other clerical work incident to enforcement of the provisions of this division, shall be prepared and mailed by the city manager or his/her designee.

(Code 1974, § 8-43; Code 1994, § 26-102; Code 2005, § 26-132; Ord. No. 2010-45, § 8, 1-10-2011)

Sec. 26-133. Collection and disposition of funds.

All payments of money by and collections of money, if any, from property owners for the purpose of paying the city for its expense in abating nuisances as provided for in this division shall be handled by the city secretary. Any such payment or collection so made shall be received by and receipted for, in duplicate, by the city secretary or one of the secretary's duly authorized assistants. Such receipts and the necessary records in connection therewith shall be prepared and handled and maintained as a permanent record, and such sums of money shall be handled, in the form and manner prescribed by the city manager.

(Code 1974, § 8-44; Code 1994, § 26-103; Code 2005, § 26-133)

Sec. 26-134. Penalty for failure to abate nuisance.

Any owner, lessee or occupant, whether a natural person or a corporation, or any agent, servant, representative or employee of any such owner, lessee or occupant, including any person having ownership, occupancy or control of any premises or lot or parcel of land or any part thereof, or any interest therein, or improvements thereon, situated within the limits of the city, on which there exists any nuisance, as described in this division, who shall intentionally, knowingly, recklessly or with criminal negligence allow or permit any such nuisance to be created, or to remain and continue if created and established, or who shall fail, refuse or neglect to remove or abate such nuisance by one of the methods provided in this division or otherwise regulating such premises so as to prevent such a nuisance within ten calendar days from the date of service of notice thereof as provided for in this division, shall be deemed guilty of a misdemeanor~~ and, upon conviction, shall be fined in an amount not to exceed $2,000.00. Each day of violation shall constitute a separate offense~~.

(Code 1974, § 8-45; Code 1994, § 26-104; Code 2005, § 26-134; Ord. No. 90-30, § 2, 11-5-1990; Ord. No. 2010-45, § 9, 1-10-2011)

Secs. 26-135--26-151. Reserved.

ARTICLE V. JUNKED VEHICLES*

***State law reference**—Junked vehicles as nuisance, V.T.C.A., Transportation Code § 683.072; abatement of nuisance of junked vehicles, V.T.C.A., Transportation Code §§ 683.071--683.078.

Sec. 26-152. Definitions.

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

Administrator means any person duly appointed by the city council to administer and enforce this article.

Antique auto means a passenger car or truck that is at least 25 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Demolisher means a person or entity whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Junk vehicle or *junked vehicle*. ~~means:~~

(1) The term "junk vehicle" or "junked vehicle"means any motor vehicle ~~as defined in V.T.C.A., Transportation Code § 683.071 et seq.,~~ that is self-propelled and is:

~~(1) Does not have lawfully attached to it:~~

~~a. An unexpired license plate; or~~

~~b. A valid motor vehicle safety inspection certificate; and~~

~~(2) Is:~~

a. Wrecked, dismantled, partially dismantled or discarded; or

b. Inoperable for a continuous period of more than:

1. 72 consecutive hours, if the vehicle is on public property; or

2. 30 consecutive days, if the vehicle is on private property.

(2) For purposes of this article, the term "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This article applies only to:

a. A motor vehicle that displays an expired license plate or does not display a license plate;

b. An aircraft that does not have lawfully printed on the aircraft an unexpired registered under Federal Aviation Administration aircraft registration regulations in 14 CFR 47; or

c. A watercraft that:

1. Does not have lawfully on board an unexpired certificate of number; and

2. Is not a watercraft described by section 31.055, Parks and Wildlife Code.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

(b) Any word not specifically defined in this section shall have the same meaning as that word has under V.T.C.A., Transportation Code ch. 683.

(Code 1974, § 8-25; Code 1994, § 26-152; Code 2005, § 26-152; Ord. No. 92-22, § 8-25, 11-16-1992; Ord. No. 2000-51, §§ 1, 2, 1-8-2001; Ord. No. 2009-13, § 2, 7-20-2009)

Sec. 26-153. Public nuisance declared.

A junked vehicle, including a part of a junked vehicle, that is located in any place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city by producing urban blight which is adverse to the maintenance and continuing development of the city, and such vehicles are hereby declared to be a public nuisance.

(Code 1974, § 8-26; Code 1994, § 26-127; Code 2005, § 26-153; Ord. No. 92-22, § 8-26, 11-16-1992; Ord. No. 2000-51, § 3, 1-8-2001; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.072.

Sec. 26-154. Administrative abatement process.

The administrator shall determine when a junk vehicle or part thereof is located so as to be visible from a public place or public right-of-way, thereby constituting a public nuisance.

(Code 1974, § 8-27; Code 1994, § 26-128; Code 2005, § 26-154; Ord. No. 92-22, § 8-27, 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

Sec. 26-155. Notice--Private property.

(a) For a nuisance on private property, the administrator shall give not less than ten days' notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten days following service of notice to abate such nuisance, and that if not abated by such day a hearing will be held by the city council or its designee. The notice shall set forth the date, time and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junk motor vehicle, any lienholder of record, and to the owner or occupant of the private premises upon which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered.

(b) If any notice is returned undelivered by the post office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day ~~less than ten days~~ after the date of the return.

(Code 1974, § 8-27(a); Code 1994, § 26-129; Code 2005, § 26-155; Ord. No. 92-22, § 8-27(a), 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.075.

Sec. 26-156. Same--Public property.

(a) For a nuisance on public property, the administrator shall give not less than ten days' notice stating the nature of the public nuisance on public property or on a public right-of-way, that it must be removed and abated within ten days following service of notice to abate such nuisance, and that if not abated by such day a hearing shall be held by the city council or its designee. The notice must set forth the date, time and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed, by certified mail with a five-day return receipt requested, to the last known registered owner of the junk motor vehicle, any lienholder of record, and to the owner or occupant of the public premises or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered.

(b) If any notice is returned undelivered by the post office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day ~~less than ten days~~ after the date of the return.

(Code 1974, § 8-27(b); Code 1994, § 26-130; Code 2005, § 26-156; Ord. No. 92-22, § 8-27(b), 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.075.

Sec. 26-157. Public hearing.

Any order issued after the hearing provided for in section 26-155 or 26-156 shall include a description of the vehicle, or vehicle part, and the correct identification number and license number of the vehicle, if the information is available at the site. After any junk vehicle is removed as provided for in this article, it shall not thereafter be reconstructed or made operable.

(Code 1974, § 8-27(c); Code 1994, § 26-131; Code 2005, § 26-157; Ord. No. 92-22, § 8-27(c), 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.076.

Sec. 26-158. Removal by city.

When a junked vehicle, or part thereof, remains on the property after being ordered removed as provided by this article, the administrator shall cause such vehicle, or part thereof, to be removed and sold for the best price obtainable to a scrap yard or demolisher. All sums so raised shall be turned over to the city secretary for deposit in the general fund of the city.

(Code 1974, § 8-27(d); Code 1994, § 26-132; Code 2005, § 26-158; Ord. No. 92-22, § 8-27(d), 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.078.

Sec. 26-159. Enforcement options.

(a) Any person violating a provision of this article may be subject to the administrative abatement process as set forth in sections 26-154 through 26-157, may be criminally prosecuted in the municipal court of the city under the penal provision of section 26-162, or both.

(b) The relocation of a junked vehicle that is a public nuisance to another location in the same municipality or county after a proceeding for the abatement and removal of the public nuisance has commenced shall have no effect on the proceeding if the administrator determines that the junked vehicle constitutes a public nuisance at the new location.

(Code 1994, § 26-133; Code 2005, § 26-159; Ord. No. 93-19, § 1, 9-27-1993; Ord. No. 2000-51, § 4, 1-8-2001; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.074.

Sec. 26-160. Notice to department of transportation.

Within five days after the date of the removal of the junk vehicle, notice shall be given to the state department of transportation, identifying the junk vehicle, or part thereof.

(Code 1974, § 8-28; Code 1994, § 26-134; Code 2005, § 26-160; Ord. No. 92-22, § 8-28, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.074.

Sec. 26-161. Exceptions.

The provisions of this article shall not apply to:

(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

(2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

a. Maintained in an orderly manner;

b. Not a health hazard; and

c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery.

(Code 1974, § 8-29; Code 1994, § 26-135; Code 2005, § 26-161; Ord. No. 92-22, § 8-29, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.077.

Sec. 26-162. Penalty for violation of article.

Any person who maintains a nuisance as described in this article shall, upon conviction, be guilty of a misdemeanor~~ and shall be punished by a fine not to exceed $200.00~~. In addition, upon conviction, the court shall order removal and abatement of the nuisance, which order may be enforced by any means authorized by the laws of the state.

(Code 1974, § 8-31; Code 1994, § 26-136; Code 2005, § 26-162; Ord. No. 92-22, § 8-31, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

Sec. 26-163. Interpretation.

Nothing in this article shall be construed to conflict with procedures set forth for dealing with abandoned motor vehicles as defined in V.T.C.A., Transportation Code ch. 683.

(Code 1974, § 8-30; Code 1994, § 26-137; Code 2005, § 26-163; Ord. No. 92-22, § 8-30, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

Secs. 26-164--26-194. Reserved.

ARTICLE VI. LITTER*

***State law reference—**Texas Litter Abatement Act, V.T.C.A., Health and Safety Code ch. 365.

Sec. 26-195. Unlawful acts.

It shall be unlawful for any person, in person or by his agent, employee or servant, to cast, throw, sweep, sift or deposit in any manner in or upon any public way or other public place in the city or any stream, creek, pond or lake, public water, drain, sewer or receiving basin within the jurisdiction of the city, any kind of dirt, rubbish, or waste article, thing or substance whatsoever, whether liquid or solid. It shall be unlawful for any person to cast, throw, sweep, sift or deposit any of the aforementioned items anywhere within the jurisdiction of the city in such manner that it may be carried or deposited, in whole or in part, by the action of the sun, wind, rain or snow, into any of the aforementioned places.

(Code 1974, § 8-8; Code 1994, § 26-161; Code 2005, § 26-195)

Sec. 26-196. Permitted deposits.

Section 26-195 shall not apply to the deposit of material under a permit authorized by any ordinance of the city; or to goods, wares or merchandise deposited upon any public way or other public place temporarily, in the necessary course of trade, and removed therefrom within two hours after being so deposited; or to articles or things deposited in or conducted into the city sewerage system through lawful drains in accordance with the ordinances of the city relating thereto.

(Code 1974, § 8-9; Code 1994, § 26-162; Code 2005, § 26-196)

Sec. 26-197. Covering of vehicles to prevent spillage.

It shall be unlawful for any person, in person or by his agent, employee or servant, to use any vehicle to haul any kind of dirt, rubbish, waste article or thing or substance, whether liquid or solid, unless such vehicle is covered to prevent any part of its load from spilling or dropping at all times while such vehicle is in motion on any street or alley in the municipality, and except while

actually being loaded or unloaded; provided, however, the requirements in this section for covering such vehicles shall not apply to vehicles carrying brush cuttings, tree trimmings, branches, logs and similar waste material, if such matter is securely lashed to such vehicle to prevent spilling or dropping as provided in this section.

(Code 1974, § 8-10; Code 1994, § 26-163; Code 2005, § 26-197)

Secs. 26-198--26-217. Reserved.

ARTICLE VII. OIL AND GAS*

***State law reference**—Oil and gas, V.T.C.A., Natural Resources Code ch. 81 et seq.; lease of municipal oil, gas or mineral land, V.T.C.A., Local Government Code § 253.005; disposition of the public domain, oil and gas, V.T.C.A., Natural Resources Code ch. 52; municipal regulation of exploration and development of mineral interests, V.T.C.A., Natural Resources Code § 92.007.

DIVISION 1. GENERALLY

Sec. 26-218. Definitions.

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

Abandonment is as defined by the railroad commission and includes the plugging of the well and restoration of the well site as required by this article.

Blowout preventer means a mechanical, hydraulic, pneumatic, or other device or combination of such devices secured to the top of the 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 to prevent blowouts.

Building means any structure used or intended for supporting or sheltering any use or occupancy, which includes, but is not limited to, all related well site work and placement of construction materials on the well site.

Child-care facility means a "child-care facility" as defined by of the V.T.C.A., Human Resources Code ch. 42.

Christmas tree means the control valves, pressure gauges, and chokes assembled at the top of a well to control the flow of oil and gas after the well has been drilled and completed. A Christmas tree is used when reservoir pressure is sufficient to cause reservoir fluids to flow to the surface.

~~*City* means the City of Friendswood, Texas.~~

~~*City council* means the City Council of the City of Friendswood, Texas.~~

City dispatcher means any representative situated at the city police station.

City engineer means the city engineer or his designated representative.

City officials. When the title of any city official is used in this article, such title shall include any duly authorized representative of such official.

Closed loop mud system means an enclosed suite of solids control equipment used for mud circulation and intended to minimize drilling fluid dilution to provide for handling of the drilling wastes so that reserve pits are not used.

Completion of drilling, re-drilling and reworking means the date the work is completed for drilling, re-drilling or reworking and the crew is released.

Comprehensive master plan means the city comprehensive master plan, as amended, consisting of multiple elements, as adopted by the city council.

Compression station means those facilities that compress natural gas after production-related activities occur.

Construction means causing or carrying out any building, bulk head, filling, clearing, excavation or substantial improvement to land or to the size of any structure.

Curbline means the line established by the city for any particular street.

Daytime means the period from 7:00 a.m. to 7:00 p.m.

Decibel (db) means a unit for measuring the intensity of a sound/noise and is equal to ten times the logarithm to the base ten of the ratio of the measured sound pressure squared to a reference pressure which is 20 micropascals.

Derrick means any portable framework, tower, mast and/or structure that is required or used in connection with drilling or reworking a well for the production of oil and/or gas.

Drilling means digging or boring a well for the purpose of exploring for, developing or producing oil and/or gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling district means a tract of land comprising a "spacing unit" or "proration unit" as determined by the railroad commission.

Excavation means any movement or alteration of the surface of the ground by machinery in conjunction with or anticipation of drilling activities or construction of a pipeline, including, but not limited to, scraping or grading a site.

Floodplain means any land area susceptible to a general and temporary condition of partial or complete inundation of normally dry land areas in a base flood from overflow of inland waters or from the unusual and rapid accumulation or runoff of surface waters from any source, as designated by the city, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, or other regulatory authority.

Fracturing means the process of fracture stimulation of a rock formation, including, but not limited to, the process of pumping sand laden fluids down a well, or any other means used, to stimulate a rock formation.

Franchise means an agreement between a utility provider and the city authorizing such utility to utilize public rights-of-way for the location of such utility's service lines for the purpose of providing utility services to the public located within the city.

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 and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas, and/or any material defined or referred to as "gas" in the rules, regulations or forms of the railroad commission.

Gathering lines means all pipelines operated incidentally to the development and operation of any oil and/or gas wells, or oil and/or gas fields and/or secondary recovery projects.

Green completion means using technology to recover gas that may otherwise be vented or flared during the completion phase of a well; using equipment designed to handle high pressure, high rate flowback fluids so as to safely handle and to sell the natural gas produced during the flowback period; using flowback equipment to separate sand, water and gas during initial flowback; having a sales line in place prior to completion of the fracturing process; using the recommended technologies and practices outlined in the U.S. Environmental Protection Agency Natural Gas STAR Program; and also including, but not limited to, vapor recovery systems, no-bleed pneumatic valves, flaring and venting bans, and electric compressors.

Habitable structures means structures suitable for human habitation or occupation, including, but not limited to, single-family or multifamily residences, hotels, condominium buildings, public buildings, buildings for commercial or industrial purposes and enclosed spaces in which individuals congregate for education, worship, amusement, or similar purposes, or in which occupants are engaged in labor, which is equipped with means of egress, light and ventilation facilities. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. The term "habitable structure" does not include accessory buildings, garages and sheds. Any structure for which a certificate of occupancy is required shall be deemed to be a habitable structure.

Historical site means an historic structure, as defined by V.T.C.A., Government Code § 442.001, or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

Inspector means any city employee or independent contractor designated by the city manager to enforce the provisions of this article.

Low-pressure distribution system means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the retail customer/end-user.

Main means a distribution line that serves as a common source of supply for more than one service line.

Nighttime means that period not included in the definition of "daytime," as defined in this section.

Operations means activities leading to and supporting the production of oil, gas and/or other hydrocarbons.

Operator means the person listed on the railroad commission form W-1 or form P-4 for a well as the applicant or the person that will be actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as defined herein, for any well is not the lessee of any premises affected by the provisions of this article, then such lessee shall also be deemed to be an operator. In the event there is no oil and gas lease relating to any premises affected by this article, the owner of the fee mineral estate shall also be deemed an operator. For purposes of a pipeline, the term "operator" shall mean any person owning, operating or responsible for operating a pipeline.

Person means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, other noncorporeal legal entity, the U.S. Government, a state, a municipality, commission, political subdivision or any international or interstate body or any other governmental entity.

Pipeline or *pipeline system* means all parts of a pipeline facility through which gas, hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, compressor units, pumping units, fabricated assemblies associated with compressor units, pumping units, metering and delivery stations, holders, and fabricated assemblies therein and breakout tanks, including, but not limited to, trunkline pipelines and gathering lines as defined by this section.

Public park means any land area dedicated to and/or maintained by the city for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned or privately managed golf courses.

Railroad commission means the Railroad Commission of Texas.

Religious institution means any building in which persons regularly assemble for religious worship and participate in activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence means a building used or intended to be used as a place of general abode or dwelling place.

Residential subdivision means any platted subdivision of land zoned for any single-family or garden home residential use pursuant to the zoning regulations.

Right-of-way is expressly limited to all public rights-of-way or streets or other public property within the city.

School means any public and 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.

Seismic survey means any activity where shock waves, sound waves, or vibrations are generated for the purpose of surveying, mapping, identifying, classifying or otherwise distinguishing subsurface characteristics indicative of the presence or absence of hydrocarbon substances, including, but not limited to, oil and natural gas.

Senior living facility means a multifamily housing unit or structure designed, constructed, operated and intended to provide residential accommodations to individuals over the age of 60.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Structure means, without limitation, any building, or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or affixed to land, including, but not limited to, habitable structures, partially enclosed structures and enclosed tanks.

Tank battery means the point of collection (tanks) and disbursement (tank, meter, lease automated custody transfer unit) of oil or gas from producing wells.

Trunkline pipeline means common carrier pipelines and other main pipelines not included in the definition of gathering lines, expressly including their rights-of-way as defined and established by instruments of record in the office of the county clerk.

Well means any hole or bore to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water or use as an injection well for secondary recovery, or any of them.

Well permit means either a high impact well permit or an urban well permit.

Zoning regulations means the city zoning ordinance, as it may be amended.

(b) All technical or oil and gas industry words or phrases used in this article and not specifically defined in this section shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

(Code 2005, § 26-218; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-219. Inspector/coordinator.

(a) The city manager shall designate officials who shall enforce the provisions of this article. The city manager may retain inspectors and hereby designates the fire marshal and other city inspectors as needed to enforce this article. Any independent contractor inspector shall have a

degree in petroleum engineering with experience in drilling and production or demonstrate a proven background in the drilling, production and operation of wells. The inspector 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.

(b) The 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 state. Failure of any person to permit access to the inspector shall constitute a violation of this article. The inspector may conduct periodic inspections of all permitted wells in the city to determine that the wells are operating in accordance with this article and within proper safety parameters as set out in this article and all regulations of the railroad commission.

(c) The inspector shall have the authority to request and receive any records, including any records sent to the railroad commission, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable well permit. Failure of any person to provide any such requested material shall be deemed a violation of this article.

(Code 2005, § 26-219; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-220. Variance procedure.

(a) An operator seeking a permit or other approval required by this article may apply for a variance from the requirements of this article by submitting to the city engineer, a written request for a variance. The request must include the following, where applicable; provided, however, that the provision of the information below will not automatically result in the approval of the variance request:

(1) Description of the requested variance and an explanation of why it should be granted;

(2) Description of alternatives considered and why each is not the preferred alternative;

(3) Description of the economic consequences to the applicant if the variance is not granted;

(4) Description of how the public health, safety and general welfare will be protected if the variance is granted; and

(5) A site plan of the site visually depicting the requested variance, if the request for the variance involves the location or orientation of persons or property.

(b) In the case of an application for a variance to any mandatory setback established by this article, a written explanation documenting the applicant's good faith efforts to obtain a notarized consent form signed by 100 percent of all owners of the affected surface interests.

(c) The city engineer shall review the application and shall place each variance request on the city council agenda for consideration. The variance request must be placed on the city council agenda for consideration within 45 days after the city engineer issues a written determination that the variance request is administratively complete.

(d) In considering the variance the city council may take into account the following:

(1) Whether the operations proposed are safe and reasonable under the circumstances and conditions prevailing in the area, considering the particular location and the character of the improvements located there;

(2) How the operations proposed compare to available alternatives;

(3) Whether the operations proposed would conflict with the orderly growth and development of the city;

(4) The economic consequence to the applicant if the variance is not granted;

(5) Whether the operations proposed adequately protect the health, safety and general welfare of the public; and

(6) Whether the operations proposed provide acceptable access for fire and EMS personnel and firefighting equipment.

(e) In order to be approved, a proposed variance must receive the affirmative vote of a supermajority of the members of the city council then present and voting; provided, however, that with respect to a variance from the provisions of section 26-270, regarding mandatory setbacks, in order to be approved, the proposed variance must then receive the affirmative vote of three-fourths of all members of the city council, whether present or not. The details of each action granting or denying the requested variance shall be recorded and entered in the records of the city secretary. The city engineer shall forward a letter to the applicant stating whether the city council has approved or denied the variance request and listing any conditions placed upon an approval.

(f) An application fee shall be charged for each variance application, in the amount set by resolution and printed in Appendix D to this Code ~~forth in the approved fee schedule~~.

(Code 2005, § 26-220; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-221. Appeal procedure.

(a) An operator adversely affected by a decision of a city official under this article may appeal such decision by filing written notice of such appeal to the office of the city secretary within ten business days of notice of such adverse decision. The notice of appeal must state the appellant's desire to appeal, the ruling from which the appellant desires to appeal and the relief or ruling sought. Any such appeal shall be to the city council. The city council, by the affirmative vote of a majority of the members then present, may affirm, reverse or modify the decision of a city official. The decision of the city council concerning an appeal under this article shall be final. The decision being appealed shall be suspended pending such appeal, unless the city manager determines that such suspension endangers the public health and safety, in which case the filing of a notice of appeal shall not act to suspend the decision of the city official.

(b) Any appeal shall be governed by the following rules and procedures:

(1) Such appeal shall be set as an item on the regular city council agenda.

(2) The appellant shall bear the burden of persuasion that the ruling being appealed is in error and shall bear the burden of proof on such matter.

(3) No formal testimony or swearing of witnesses shall be required and the city council may consider any facts or evidence the city council determines is appropriate. The city official shall present the facts and evidence relied upon by him and the reasons for the ruling; the appellant shall then have an opportunity to present the facts and evidence relied upon by the appellant. The city council shall then consider any facts or evidence from the public or other interested persons. The city council may ask questions of the city official, appellant and any other interested persons as the city council determines is appropriate. The city council may limit the time for any presentation in its sole discretion.

(4) Upon the conclusion of the hearing, the city council shall then render its decision.

(c) No appeal for the same or related issue on the same piece of property shall be allowed from a previous ruling on any appeal absent a material change of circumstances. If the appellant asserts such a change of circumstances and seeks rehearing of an appeal, such appeal need not be considered unless the applicant presents in writing evidence establishing such change of circumstances. Any such subsequent appeal shall be considered entirely on its own merits and the peculiar and specific conditions related to the property on which the appeal is brought.

(d) An application fee shall be charged for each appeal, in the amount set by resolution and printed in Appendix D to this Code ~~forth in the approved fee schedule~~.

(Code 2005, § 26-221; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-222--26-229. Reserved.

DIVISION 2. PERMITS

Sec. 26-230. Well permit required.

(a) A person wanting to engage in and operate well drilling or production activities shall apply for and must obtain a well permit under this division and shall indicate what classification of well permit is requested. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, reworking, operation of any such well or to conduct any activity related to well production without first obtaining a well permit issued by the city in accordance with this division. A separate permit shall be required for seismic surveys in accordance with section 26-237.

(b) An operator must apply for and obtain a well permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well. A separate application is required for each well bore and no permit shall be issued on a "blanket" basis.

(c) A 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 division if the operator is re-entering and drilling an abandoned well.

(d) When a well permit has been issued to the operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance, repair, reworking, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well; provided, however, that a new permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

(e) A well permit shall automatically terminate, unless extended, if drilling is not commenced within 180 days from the date of the issuance.

(f) A well permit required by this division is in addition to and is not in lieu of any permit that may be required by any other provision contained within this Code or by any other governmental agency.

(g) By acceptance of any well permit issued pursuant to this division, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this division. The terms of this division shall be deemed to be incorporated in any well permit issued pursuant to this division with the same force and effect as if this division was set forth verbatim in such well permit.

(Code 2005, § 26-230; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-231. Well permit application contents.

(a) Every application for a well permit shall be in writing, signed by the operator or person duly authorized to sign on the operator's behalf, and filed with the city engineer. A separate application is required for each well bore. The city may engage a third party consultant or engineer to review information submitted by the applicant for compliance with this division and verification of the submittal information and the actual cost of such third party review shall be charged to the

operator/applicant. An application fee shall be charged for each application, in the amount set by resolution and printed in Appendix D to this Code ~~forth in the approved fee schedule~~.

(b) Each well permit application shall contain the following information:

(1) The date of the application.

(2) An accurate legal description of the property to be used for the oil and/or gas operation, the parcel, the production unit and name of the geologic formation as identified by the railroad commission. Property recorded by plat should be referenced by subdivision, block and lot numbers, as applicable.

(3) If a specific use permit has been approved for the proposed oil and gas operation, a list of all requirements set forth in the approved specific use permit and a written summary of how those requirements will be met.

(4) A map showing the proposed transportation route identifying all public and private roads/routes intended for use within the territorial limits of the city.

(5) The proposed well name.

(6) The surface owner name, phone number, address, and, if available to the operator, primary email address.

(7) The mineral lessee name, phone number, address, and, if available to the operator, primary email address.

(8) Operator name, phone number, facsimile transmission number, address, and primary e-mail address.

(9) If the operator is a corporation or other noncorporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names, ~~and~~ addresses and primary e-mail addresses of the general partners.

(10) Name, phone number, address, and, primary email address of the individual designated to receive notice on behalf of the operator.

(11) Name of representative with supervisory authority over all well site activities and a 24-hour phone number.

(12) Owner and address of each parcel of property within 1,000 feet of the parcel on which the proposed drill site is located, as indicated in the most recently approved municipal tax roll.

(13) A site plan of the proposed well site depicting the color, height, size, bulk and location of all structures and equipment specific to the proposed site, including, but not limited to, all screening, landscaping, lighting, utilities and floodplain designation; and the location and description of all improvements, structures, utilities and floodplain areas within 1,000 feet of the proposed well site.

(14) The name, address, primary e-mail address and 24-hour phone number of the person to be notified in case of an emergency.

(15) Copies of all reports required by the railroad commission, specifically, including a copy of the approved railroad commission form W-1 and/or form P-4.

(16) A signed statement of intent to execute a road remediation agreement and pay the road damage remediation fee, as provided in this division.

(17) A description of all fuel sources to be used at the proposed well site, including, but not limited to, all public utilities needed during drilling and operation.

(18) A description of the water source to be used during well operations, including during drilling and production activities. If city water will be sought for operations, a copy of the completed "utility capacity request" must be included.

(19) A copy of the approved railroad commission permit to drill, including attachments and survey plats that are applicable to the well site.

(20) A stormwater pollution prevention plan (SWPPP) complying with all federal, state, and local stormwater quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements.

(21) A tree protection/preservation plan complying with all requirements of the city's tree preservation ordinance.

(22) An erosion control plan complying with all requirements of the city.

(23) A hazardous materials management plan.

(24) All current material safety data sheets (MSDS) detailing each of the hazardous and nonhazardous materials that will be located, stored, transported and/or used at the well site (including site preparation, boring, completion, fracturing (or similar programs)).

(25) An emergency response plan.

(26) A noise management plan.

(27) A vibration attenuation plan.

(28) A signage plan complying with all requirements of the railroad commission for the well site that includes the dimensions, colors and content of all signage proposed to be installed at the well site.

(29) A screening, fencing and landscape plan, including a line of site analysis, detailing compliance with all landscape and screening requirements required by this division, including a proposed schedule detailing the timing of all landscaping, screening and fencing to be installed.

(30) A landscape irrigation plan as designed by a state licensed landscape architect or licensed irrigator detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation.

(31) A copy of the determination by the state railroad commission concerning the depth of useable quality groundwater.

(32) Evidence of insurance and security meeting the minimum levels established by this division.

(33) A dust mitigation plan detailing measures to be implemented to mitigate and suppress dust generated at the well site and the private vehicle access route, including a mud shaker for vehicles exiting the site.

(34) A detailed evacuation plan addressing the evacuation strategy for persons within 1,000 feet of the well bore.

(35) A waste management plan that addresses collection and removal of human, solid and drilling production waste.

(36) A leak detection and compliance plan (LDCP) that is intended to assess and evaluate the impact of drilling, production, and other activities at the well site and immediate surroundings.

(37) A green completion plan that addresses equipment, techniques, practices and programs that will be implemented to reduce emissions from well site equipment and produced hydrocarbons.

(38) A gas dispersion model, a risk assessment and a blast study.

(39) A description of the cement casing program proposed for the well.

(40) A traffic impact analysis study.

(41) A supervisory control and data acquisition (SCADA) plan.

(42) A site lighting plan designed to promote the safety of nighttime operations.

(43) A surface reclamation plan.

(44) Detailed design drawings certified by a registered professional engineer licensed in the state along with all basic design criteria for the pipeline intended to serve the well.

(45) Location of compressor, compressor control, or safety devices with an explanation of the operating characteristics of each.

(c) All applications for a well permit shall be accompanied by an application fee in the amount set by resolution and printed in Appendix D to this Code ~~forth in the city's fee schedule~~.

(Code 2005, § 26-231; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-232. High impact well permit.

(a) A high impact well permit shall be required if the proposed well is to be located within 1,000 feet of a residence, religious institution, hospital building, school, cemetery, historical site or public park. The measurement of the 1,000-foot distance shall be made from the proposed well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building, or, in the case of a cemetery, historic site or public park, to the closest property line. This provision includes any residence, religious institution, hospital building, or school for which a building permit has been issued on the date the application for a permit is filed with the city. All applications for a high impact well permit shall be accompanied by an application fee in the amount set by resolution and printed in Appendix D to this Code.

(b) An application for a high impact well permit shall include all the requirements of section 26-231. The permitting procedure for a high impact well permit shall be as follows:

(1) Within 45 days of receipt of a complete application, the city engineer shall place the matter on the city council agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The 45-day period shall not begin to run until the applicant/operator has provided the city engineer with a complete application package.

(2) At least 20 days and no more than 30 days prior to the date of the public hearing before the city council for a high impact well permit the operator shall notify, at the operator's expense:

a. Each surface owner of property, as shown by the current tax roll, within 1,000 feet of the proposed well; and

b. Each owner of a residence, religious institution, hospital building, school, cemetery and historic site, as shown on the current tax roll, within 1,000 feet of the proposed well;

of the hearing date and time. 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 an affidavit with the city engineer 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 well site.

(3) At least 15 days and no more than 20 days prior to the date of the public hearing before city council for a high impact well permit the operator, at the operator's expense, shall publish a copy of the notice as outlined below 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 Friendswood, Texas, on the _____ day of _____, 20_____, _____ filed with the City of Friendswood, an application for a High Impact well permit to drill, complete and operate a well upon property located at _____, _____ County, Friendswood, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas, or per Tax Tract Number _____, _____ County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of _____, 20_____ at _____ o'clock in the City Council Chambers located at 910 S Friendswood Dr., Friendswood, Texas."

(4) At least 20 days, but not more than 30 days, prior to the date of the public hearing before the city council for a high impact well permit the operator shall, at the operator's expense, erect at least one sign, no less than three feet by three feet, upon the premises upon which a high impact 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 sign shall substantially indicate that a high impact well permit to drill has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/operator at the number indicated on the sign.

b. The continued maintenance of any such sign shall not be deemed a condition precedent to the holding of any public hearing or to any other official action pursuant to this division.

c. Any sign shall be removed by the applicant/owner subsequent to final action by the city council.

(5) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(6) After a high impact permit application is submitted, the city engineer shall evaluate the public impact of the proposed activity. The city engineer shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the city engineer deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing along with evidence that timely actual notice of the hearing was given to all persons as required by this division.

(7) The burden of proof on all matters considered at the hearing shall be upon the applicant/operator.

(8) The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a high impact well permit:

a. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;

b. Whether the drilling of such well would conflict with the orderly growth and development of the city;

c. Whether there are other alternative well site locations that would allow reasonable access to explore, develop and produce the mineral estate without creating mineral waste;

d. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the high impact well permit conditions to be imposed;

e. Whether there is acceptable access for the city fire personnel and firefighting equipment;

f. Whether the impact upon adjacent property and the general public by operations conducted in compliance with the well permit conditions is reasonable and justified, balancing the following factors:

1. The right of the owner of the mineral estate to explore, develop, and produce the minerals; and

2. The availability of alternate well sites; and

g. The recommendations of the city engineer.

(9) The city council may require an increase in the distance the well is set back from any residence, religious institution, public building, hospital building, school, cemetery, historical site or public park, or require any change in operation, plan, design, layout or any change in the on-site and technical regulations of this division, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.

(10) The city council may accept, reject or modify the application in the interest of securing compliance with this division, this Code and/or to protect the health, safety and welfare of the community.

(Code 2005, § 26-232; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-233. Urban well permit.

(a) An urban well permit shall be required for all wells within the city that do not require a high impact well permit.

(b) An application for an urban well permit shall include all of the requirements of section 26-231. <u>All applications for an urban well permit shall be accompanied by an application fee in the amount set by resolution and printed in Appendix D to this Code</u>. The permitting procedure for an urban well permit shall be as follows:

(1) At least ten days prior to the date of filing of an application for an urban well permit the operator shall notify, at the operator's expense, each surface owner of property, as shown

by the current tax roll, within 300 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 an urban well permit the operator, at the operator's expense, shall publish a copy of the notice as outlined below in 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 Friendswood, Texas, on the _____ day of _____, 20_____, _____ will file with the City of Friendswood, an application to drill, complete and operate a well upon property located at _____, _____County, Friendswood, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas, or per Tax Tract Number _____, _____ County, Texas."

(3) At least ten days, but not more than 30 days, prior to the date of filing of an application for an urban well permit 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 an urban 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 sign shall substantially indicate that an urban well permit to drill 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 sign shall not be deemed a condition precedent to any official action pursuant to this division.

c. Any sign shall be removed subsequent to final action by the city engineer or the city council.

(4) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(c) It is the responsibility of the city engineer to review and accept or reject all applications for urban well drilling permits based on the criteria established by this division. The city engineer, within 30 days after the filing of a completed application and remittance of all fees, insurance and security pursuant to the requirements of this division for an urban well permit, shall determine whether or not the application complies in all respects with the provisions of this division and determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested urban well permit on the date the completed application is received by the city engineer. Failure of the city engineer to complete the review and issue the urban well permit within the time limits specified above shall not cause the application for the urban well permit to be deemed approved.

(d) If the city engineer denies an urban well permit application he 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 of the city engineer to deny the urban well permit, the operator may:

(1) Cure those conditions that caused the denial and resubmit the application to the city engineer for reconsideration; or

(2) File an appeal to the city council under the provisions outlined in section 26-221.

(e) An operator/applicant may at any time request that an urban well permit application be processed and considered as a high impact well permit application, in which case the city engineer shall process the application in accordance with section 26-232.

(Code 2005, § 26-233; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-234. Amended well permits.

(a) An operator may submit an application to the city engineer to amend an existing well permit in any respect other than to change the location of the well site, to perform drilling operations in a manner that was not approved under the original well permit or where the proposed amendment would result in a conflict with any specific use permit applicable to the well site property.

(b) Applications for amended well permits shall be in writing on forms provided by the city and signed by the operator, and shall include the following:

(1) An application fee in the amount set by resolution and printed in Appendix D to this Code ~~forth in the city's fee schedule~~, which shall be nonrefundable, regardless of the outcome of the application;

(2) A description of the proposed amendments;

(3) Any changes to the information submitted with the application for the current well permit (if such information has not previously been provided to the city);

(4) Such additional information as is reasonably required by the city engineer to demonstrate compliance with the provisions of this division; and

(5) Such additional information as is reasonably required by the city engineer to prevent imminent destruction of property or injury to persons.

(c) If, in the judgment of the city engineer, the activities proposed by the amendment require an inspection, an inspection fee in the amount set by resolution and printed in Appendix D to this Code ~~forth in the city's fee schedule~~ shall be charged. In such event, the operator must pay such inspection fee before the amended well permit will be processed further.

(d) Incomplete applications shall not be accepted for filing and shall be returned to the operator within 30 business days. The city shall return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator or where the operator is in violation of any federal, state or local regulation with respect to the proposed activities covered by the application.

(e) If the activities proposed by the amendment are materially different from that previously approved by the city, and, in the judgment of the city engineer, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit, or that was not otherwise taken into consideration by the existing permit, the amendment shall be processed as a new well permit application.

(f) A decision to deny an amendment to a well permit shall be provided to the operator in writing, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council as provided in this division.

(Code 2005, § 26-234; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-235. Suspension or revocation of well permit; effect.

(a) An operator shall comply at all times with all applicable federal, state and city laws, regulations and rules. If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a well permit, the operator is subject to immediate citation, injunction, abatement or any other remedy permitted by law. When possible under the circumstance, the inspector, city engineer or other designated city employee or representative 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.

(b) If the operator fails to comply within ten days after notice, or fails to comply immediately if there is an imminent health and safety issue as determined in the sole discretion of the city engineer, the city engineer may suspend or revoke the well permit pursuant to the provisions of this division.

(c) No person shall engage in any operations performed under the terms of the well permit issued pursuant to this division during any period of any well permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the well permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the well permit was ordered for the safety of persons or as required by the railroad commission.

(d) If the operator does not cure the noncompliance within the time specified in this division or immediately if there is an imminent health or safety condition, the city engineer may notify the railroad commission and additionally request that the railroad commission take any appropriate action.

(e) The operator may file an appeal to any decision to suspend or revoke a well permit, in accordance with the provisions of this division.

(Code 2005, § 26-235; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-236. Transfer of well permits.

(a) A well permit may be transferred upon written request by the operator with the consent of the city:

(1) If the transferee agrees to be bound by the terms and conditions of the current well permit and road repair agreement;

(2) If all information previously provided to the city as part of the current well permit application is updated to reflect any changes; and

(3) If the transferee provides the insurance and security required by this article.

(b) The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the city. The transfer shall not relieve the transferor of any liability to the city arising out of any activities conducted prior to the transfer.

(c) Applications for the transfer of well permits shall be filed with the city engineer. An application fee shall be charged for each application, in the amount set by resolution and printed in Appendix D to this Code ~~forth in the approved fee schedule~~.

(Code 2005, § 26-236; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-237. Geophysical/seismic operations.

(a) A separate seismic survey permit shall be required for all seismic surveys. The operator conducting the seismic survey shall complete and submit a seismic survey application to the city engineer containing, at a minimum, the following information:

(1) Operator name, phone number, facsimile transmission number, address, and, if available, primary email address;

(2) If the operator is a corporation or other noncorporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names, ~~and~~ addresses and primary e-mail addresses of the general partners;

(3) Location of seismic survey;

(4) Date and time the seismic survey is intended to be conducted;

(5) Detailed explanation of the seismic survey method intended to be used;

(6) Date and time the seismic survey will be completed;

(7) Identification of all staging areas;

(8) A detailed map showing the locations of all vibration and geophone points; and

(9) An assessment of the proposed survey and a report issued by a state licensed professional engineer that the proposed survey will not have any adverse impact on existing infrastructure or nearby facilities.

(b) Under no circumstances may explosive charges, including, but not limited to, the use of dynamite, be used to conduct a seismic survey. In addition, the seismic survey activity shall be conducted in accordance with all applicable city ordinances.

(c) A fee in the amount set by resolution and printed in Appendix D to this Code ~~forth in the city's fee schedule~~ must accompany each seismic survey permit application.

(d) No seismic activity shall be permitted on city-owned fee property or city-controlled rights-of-way or utility easements without the express consent of, and pursuant to the conditions established by, the city council pursuant to a negotiated revocable license agreement governing the same.

(e) Proof of insurance in the form of a standard commercial general liability insurance bond shall be required. This coverage must include premises, operation, products, completed operations, sudden or accidental pollution, blanket contractual liability, 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 as set by resolution and printed in Appendix D to this Code.

(f) Within 45 days of receipt of a complete application, the city engineer shall place the application on the city council agenda for a public hearing. The city council may accept, reject or modify the application in the interest of securing compliance with this division, this Code and/or to protect the health, safety and welfare of the community.

(Code 2005, § 26-237; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-238, 26-239. Reserved.

DIVISION 3. BOND, LETTERS OF CREDIT, INSURANCE AND INDEMNITY

Sec. 26-240. Bond and insurance; required amounts.

(a) If a permit is issued by the city engineer under the terms of this article for the drilling of a well or installation of pipeline, no actual operations shall be commenced unless the operator files with the city engineer a bond and certificate of insurance as follows:

(1) A bond in the principal sum as set by resolution and printed in Appendix D to this Code ~~of $1,000,000.00~~ shall be executed by a reliable insurance company authorized to do business in the state, as surety, listing the applicant as principal, and running to the city for the benefit of the city and all persons concerned, under the condition that the operator shall comply with the terms and conditions of this article in the drilling and operation of the well or completion of a pipeline. Such bond shall become effective on or before the date it is filed with the city secretary and shall remain in force and effect for at least a period of six months subsequent to the expiration of the term of the permit issued; and, in addition, the bond will be conditioned that the operator will promptly pay all legally imposed fines, penalties and other assessments imposed upon the operator by reason of his breach of any of the terms, provisions and conditions of this article and that the operator will promptly restore the streets and sidewalks and other public property of the city which may be disturbed or damaged in the operations to their former condition; that the operator will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations, and will, after abandonment or completion, grade, level and restore such property to the same surface conditions, as nearly as possible, as existed when operations were first commenced; and that the operator will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the city manager shall, after hearing thereon, deem any operator's bond to be insufficient for any reason, the city manager may require the operator to file a new bond.

(2) If, after the completion of a producing well, a pipeline, or any facility for which a bond is required by this division, the operator has complied with all the provisions of this article, such as removing the derrick, clearing the premises and erection of fences, he may apply to have the bond reduced to a sum as set by resolution and printed in Appendix D to this Code ~~of not less than $100,000.00~~ on each well or facility for the remainder of the time such well produces or facility is operated without reworking. During reworking operations, the amount of the bond shall be increased to the original amount. A pipeline installation shall not be considered as completed until the lines have been tested and in operation for a period of 30 days.

(b) In addition to the bond required in subsection (a) of this section, the operator shall carry a policy of standard, comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the operator and the city, with an insurance company authorized to do business in the state. Such policy in the aggregate shall provide for the ~~following~~ minimum coverages set by resolution and printed in Appendix D to this Code.

~~(1) Bodily injuries: $2,000,000.00, one person; $5,000,000.00, one accident.~~

~~(2) Property damage: $5,000,000.00.~~

(1) The operator shall file with the city secretary the certificates of insurance required by this section. The insurance policy shall not be canceled without written notice to the city secretary at least ten days prior to the effective date of such cancellation. If such insurance policy is canceled, the permit granted shall terminate, and the operator's right

to operate under such permit shall cease until the operator files additional insurance as provided in this section. If after the completion of a well or pipeline, the operator has complied with all the provisions of this article, such as removing derrick, completion of the pipeline, clearing the premises, and any other provision of this article, the insurance will be as ~~follows~~ set by resolution and printed in Appendix D to this Code.

~~(3) Bodily injuries: $2,000,000.00, one person; $5,000,000.00, one accident.~~

(2) Property damage insurance is ~~$5,000,000.00~~ for the remainder of the time such well is produced without reworking. During the reworking operations, the amount of the insurance policy or policies shall be increased to the original amount.

(c) Exceptions. The city manager may grant an exception to the requirements of this section when, in the city manager's opinion, the intent and purpose of the bond and insurance can be assured by the following means:

(1) Acceptance of the guarantee or indemnity to the city in lieu of bond and a plan of self-insurance in the case of financially responsible operators.

(2) Acceptance of a blanket bond and single policy of insurance to cover all operations of the operator within the corporate limits of the city.

(3) Application of bond and insurance requirements acceptable to the city manager.

(Code 2005, § 26-240; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-241--26-249. Reserved.

DIVISION 4. OPERATOR PLANS AND REPORTS

Sec. 26-250. Road remediation agreement and fee.

(a) A road remediation agreement and road damage remediation fee shall be submitted in conjunction with an application for a well permit. The agreement must be signed by the operator. The city manager shall have the authority to execute the road remediation agreement.

(b) A road damage remediation fee shall be charged for each well. To determine the road damage remediation fee, the operator shall employ a state licensed professional engineer who shall evaluate the anticipated damage to the city's public rights-of-way comprising the operator's proposed transportation route to the well, and using the current fair market value cost per square yard of road surface material, including installation and labor, calculate the cost to the city to repair or reconstruct the public rights-of-way to the same condition they existed on the date the well permit application was submitted. The operator's engineer shall employ methodologies that constitute generally accepted practices of road replacement, repair, and maintenance professionals undertaking similar project evaluations at the same time, and in the same geographical area. The city engineer shall then review and accept, or modify the cost estimates in determining the ultimate figure that will constitute the road damage remediation fee.

(Code 2005, § 26-250; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-251. City water service.

If water is purchased from the city, the city may implement water rationing, including service interruption, in the event Stage 1 water restrictions are implemented. The city may terminate water service in the event of emergency water demand.

(Code 2005, § 26-251; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-252. Stormwater pollution prevention plan.

A stormwater pollution prevention plan (SWPPP) shall be required complying with all federal, state and local stormwater quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements. A copy of the NOI shall be submitted to the city seven business days prior to the commencement of any on-site activity.

(Code 2005, § 26-252; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-253. Hazardous materials management plan.

The hazardous materials management plan shall be filed with the city engineer, fire marshal and city engineer. The hazardous materials plan shall be kept current with any additions, modifications and amendments concerning all construction related activities and oil and gas operations and production. The plan shall include HAZMAT and fire department response times and updated hazardous materials plans shall be submitted to the city engineer, fire marshal and fire chief within two business days of any additions, modifications, and/or amendments.

(Code 2005, § 26-253; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-254. Material safety data sheets.

All current material safety data sheets (MSDS) detailing each of the hazardous and nonhazardous materials that will be located, stored, transported and/or used at the well site, (including site preparation, boring, completion, fracturing or similar programs). The MSDS shall indicate all types, quantities, volumes and concentration of all additives used in the drilling, completion and fracturing or similar programs.

(Code 2005, § 26-254; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-255. Emergency response plan.

(a) An emergency response plan shall be required and shall use existing guidelines established by the railroad commission, the state commission on environmental quality, state department of transportation and the United States Environmental Protection Agency. The emergency response plan shall be kept current with any additions, modifications and amendments concerning all construction related activities and oil and gas operations and production. Updated plans shall be submitted to the fire marshal and city engineer within two business days after any additions, modifications and amendments are made. A copy of the emergency response plan shall be kept on-site. The emergency response plan shall, at a minimum, provide for all of the following:

(1) Prompt and effective response to emergencies regarding:

a. Leaks or releases that can impact public health, safety and welfare;

b. Fire, explosions, loss of well control or blow out at the well or in the vicinity of the well; and

c. Natural disasters.

(2) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency, including a detailed plan that should address contacting city officials responsible for implementing city policy regarding notification and evacuation of residents, where necessary.

(3) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency.

(4) Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment.

(5) Fire department and HAZMAT response times.

(6) An emergency shutdown of an oil or gas well and related site.

(7) The safe restoration of service and operations following an emergency or incident.

(8) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(b) An annual certification and update of the emergency response plan shall be performed by the operator and submitted to the city engineer and fire marshal.

(Code 2005, § 26-255; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-256. Noise management plan.

A noise management plan shall be required complying with all requirements of the city, including, but not limited to, section 26-272, prepared by a noise control engineer or other qualified person approved by the city engineer, for any equipment used in the drilling, completion or production of a well. The noise management plan shall include the following:

(1) Describe the proposed operation and potential noise impacts. This analysis must include a comparison of the potential noise generation with the applicable noise standards;

(2) Establish the ambient noise level for both the daytime and nighttime hours over a minimum of 48 hours;

(3) Identify all noise mitigation techniques that will be implemented at the site, including blankets/curtains, sound walls, and mufflers for generators and motors;

(4) Describe best management practices that will be implemented to reduce the impact of noisier operations such as pipe deliveries, use of horns for communication, tripping and fracturing;

(5) Mitigation of pure tone and low tone frequency noise; and

(6) Maximum noise levels anticipated at the well site.

(Code 2005, § 26-256; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-257. Screening, fencing and landscape plan.

(a) The screening, fencing and landscaping plan required as a component of any well permit application, as well as the plan's implementation, shall comply with the requirements of this section.

(b) The permanent screening of a site shall consist of a landscaped enclosure with a minimum height of eight feet and a maximum height of ten feet. The enclosure must be installed along the entire perimeter of the site. Low-profile equipment or facilities shall be used on the site.

(c) Permanent screening shall comply with the following:

(1) A site shall be enclosed with either a wrought iron fence with a double row of dense evergreen plantings, each row staggered to form a solid screen that is at least eight feet tall at the time of planting, or a screening wall constructed of at least two complimentary masonry construction materials with nondwarf variety shrubs planted three feet on center, with a minimum height of three feet at planting and reaching a mature height of at least six feet. For the purpose of this subsection, "masonry construction material" shall mean brick or natural or manufactured stone units at least two inches thick, laid up unit by unit and set in mortar.

(2) The type and dimensions of a fence or wall and plantings for the enclosure shall be approved as proposed by the applicant or may be modified as deemed appropriate by the city council or city engineer, depending on the type of well permit sought.

(d) A fence or wall required under this section shall meet the following:

(1) Fences or walls shall be designed by a state registered design professional based on soil analysis and geotechnical data. The operator shall submit plans sealed by the registered design professional indicating the design specifications of the fence or wall. Upon completion of the fence or wall, the operator shall provide a letter to the city sealed by the registered design professional certifying that the fence or wall was installed according to the design specifications.

(2) A fence or wall that is leaning by ten degrees or more beyond plumb or is missing portions of the fence or wall panels shall be considered structurally unsafe and a hazard to safety, health and public welfare. Should the city determine that the fence or wall is structurally unsafe, the operator shall commence repairs or replacement of the fence or wall within 48 hours of receipt of written notice from the city.

(3) Examples of an appropriate screening wall and landscape scheme.

[GRAPHIC]

(e) Trees shall be planted around the site in the following proportion: A maximum of 70 percent of the trees shall be at least 3 1/2 caliper inches, and a minimum of 30 percent of the trees shall be at least five caliper inches. Trees shall be of an evergreen variety and container grown.

(f) Trees shall be planted in a manner so as to achieve a more natural appearance. The number of required trees shall be established at a rate of one tree for each 25 linear feet along each side of the site.

(g) The permanent screening, landscaping and irrigation shall be installed within 120 days from setting surface casing on the first well on a site. Irrigation shall be designed to ensure that water is evenly distributed to the soil on the interior and exterior sides of the screening wall or fence.

(h) A temporary chain-link fence or other approved type of fence with a minimum height of six feet shall be required around a well site until the permanent screening has been installed in accordance with this section. The fence shall have slats that provide 90 percent opaqueness.

(i) Other screening and landscaping materials may be approved by the city council or city engineer, depending on the type of well permit sought.

(j) A wrought iron or ornamental gate shall be required for any entrance to the site. The gate shall have no openings greater than four inches in width.

(k) The operator shall be responsible for maintaining all landscaping in a healthy, neat, orderly and live-growing condition at all times.

(l) The raw soil in disturbed areas or embankments around each well site shall be seeded or covered with grass, which shall be maintained in a healthy and live-growing condition.

(Code 2005, § 26-257; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-258. Landscape irrigation plan.

A landscape irrigation plan shall be required, designed by a state licensed landscape architect or licensed irrigator detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation. All trees on site shall be irrigated by a bubbler system.

(Code 2005, § 26-258; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-259. Evacuation plan.

A detailed evacuation plan shall be required addressing the evacuation strategy for a school, hospital building, senior living facility, assisted living and/or nursing care facility or childcare facility if any such facility will be located within one-half mile of the edge of the proposed well site; and, a detailed list of all residences to be notified in the event of an evacuation, including, without limitation, all persons residing within one-half mile (2,640 feet) of the edge of the proposed well site. The plan should address the methods that the operator will employ to notify the city in a timely manner that an event requiring evacuation has occurred, as well as the methods that will be employed to maintain a current, up-to-date, notification list. The plan shall also include an evaluation of alternate access points for ingress or egress to the well site, other than the primary drive.

(Code 2005, § 26-259; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-260. Leak detection and compliance plan.

A leak detection and compliance plan (LDCP) shall be required to ensure that all site activities and equipment are in compliance with applicable rules and regulations. The LDCP shall include methodology to assess and evaluate the impact of drilling, production and other activities at the well site and immediate surroundings. Specific elements shall include, but are not limited to, a leak detection monitoring program; methods and equipment for emission measurements; site inspection activities; continuous distance monitoring through the use of a supervisory control and data acquisition (SCADA) plan; a response plan to address emergency issues if they arise; and any other information required by the city engineer. Monitoring should include evaluation of potential impact to air, soil, surface water and groundwater. In addition to other reporting requirements established by this division, annual reporting of the monitoring results to the city is required with all laboratory data sheets, field logs, data summary, and actions taken in the previous monitoring period. The plan must be created in accordance with city-mandated guidelines and address the manner in which periodic inspections by a third party will occur to ensure compliance with the LDCP plan goals.

(Code 2005, § 26-260; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-261. Lighting plan.

A site lighting plan shall be required, designed to promote the safety of nighttime operations. The plan should include a photometric plan, indicating the type and color of light to be used at the well site.

(Code 2005, § 26-261; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-262. Supervisory control and data acquisition (SCADA) plan.

A supervisory control and data acquisition (SCADA) plan shall be required and shall outline how data from the well site will be continuously collected in a real-time manner and how this data is monitored. Data shall be collected at every stage of the oil or gas drilling and production process. The plan shall address how the SCADA system will control factors such as leakage, fire, emergency shut-down, oil or gas flow rate and accumulated flow, line pressure, detection and control, well-head pressure, pump status, tank level and other critical factors defined by the city. In addition, the plan should define the equipment, sensors, hardware, communication interfaces (radio, wire, fiber optic and microwave) and electro-mechanical devices that will be employed and how these devices will function during an emergency situation.

(Code 2005, § 26-262; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-263. Periodic reports.

(a) The operator shall notify the city engineer of any change to the following information within one business day after the change occurs:

(1) The name, address, primary e-mail address and ~~or~~ phone number of the operator;

(2) The name, address, primary e-mail address and ~~or~~ 24-hour phone number of the person with supervisory authority over drilling or operations activities;

(3) The name, address, primary e-mail address and ~~or~~ phone 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

(4) The operator's emergency response plan.

(b) The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission or any other state or federal agency within 30 days after the operator has notice of the existence of such reports or complaints.

(c) Beginning on December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the city that the well has been abandoned and the site restored, the operator shall prepare a written report to the city identifying any changes to the information that was included in the application for the applicable well permit that has not been previously reported to the city.

(d) Beginning on December 31 and annually thereafter each operator shall provide an operational status report to the city for every well permitted by the city. The report shall include the well name, API number, lease name, city case number, railroad commission permit number, railroad commission lease ID number and current well status, whether pending, drilling, completing, producing, plugged or abandoned.

(Code 2005, § 26-263; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-264. Public information.

The operator of a well subject to a high impact well permit shall comply with the following requirements regarding the provision of public information:

(1) After approval of a high impact well permit application, the operator shall submit to the city engineer an accurate written timeline account of all planned operational events associated with the well. The account must be updated monthly and must thoroughly describe the events that will occur. Events to be documented shall include, but are not limited to, site preparation and grading, site construction of the drilling rig and accessory structures, the expected amount of time spent drilling on-site, all casing installation, testing, disassembly of the drilling rig, pipeline installation, well stimulation, maintenance, installation of production facilities, site clean-up and production.

(2) Within 15 days of approval of a high impact well permit, the operator shall submit an educational letter to the city engineer detailing typical operations associated with oil and gas drilling activity, written with an intended audience of the general public. The topics to be detailed shall include, but are not limited to, site preparation, site development and construction, drilling, casing, well stimulation, pipeline construction, production, transportation, and general weekly, monthly and yearly maintenance of the operation site. The letter will be published on the city's web site and further dissimulated using social media for the benefit of the public.

(Code 2005, § 26-264; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-265--26-269. Reserved.

DIVISION 5. ON-SITE AND TECHNICAL REGULATIONS

Sec. 26-270. Well and pipeline setbacks.

(a) No well shall be permitted within 1,000 feet of a residence, religious institution, hospital building, or school, except in accordance with the following:

(1) A well shall be permitted as close as 300 feet to any residence, religious institution, hospital building, or school, if all affected property owners within 1,000 feet of the well consent in writing.

(2) For the purpose of subsection (1) of this section, the term "affected property owner" shall mean the then-current owner of the residence, religious institution, hospital building, or school at the time the well permit application is filed.

(3) Consent in writing shall be upon such forms prepared by the city engineer and shall require the notarized signature of the affected property owner. In no event shall an executed oil and gas lease for development of minerals beneath the affected residence, religious institution, hospital building, or school constitute consent, for the purposes of this section.

(b) No well may be located within 100 feet of a railroad right-of-way.

(c) In addition to obtaining written permission from affected property owners in accordance with subsection (a)(1) of this section, an operator shall give written notice, in a form acceptable to the city engineer, to the tenants or lessees of any residential structure, such as a manufactured home or a rental property, located within 1,000 feet of the proposed well for which the operator is making an application for a well permit. Such notice shall be sent by certified mail, return receipt requested, and by first class U.S. Mail. The operator shall provide copies of the return receipts and an affidavit certifying that notice has been sent to the above-referenced tenants or lessees.

(d) No pipeline except low-pressure distribution system pipelines as defined herein shall be installed nearer than 50 feet to any residence or commercial building.

(e) No residential, commercial or industrial structure other than structures necessary to operate the pipeline shall be erected or moved to a location nearer than the distance required under the city's subdivision ordinance (Appendix B to this Code), as it may be modified or amended.

(f) No residential, commercial or industrial structure should be permitted to be built nearer than 150 feet from any well or related facility other than structures necessary to operate the well or facility.

(Code 2005, § 26-270; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-271. Efficient use of surface.

It is the intent of this section to encourage efficient surface land use by requiring compact and centrally located well development that minimizes the total amount of surface area needed for well facilities and avoids the creation of unusable strips and parcels. In order to implement this requirement, each operator shall, to the extent permitted by railroad commission spacing rules, strive to co-locate well equipment in order to serve multiple well sites.

(Code 2005, § 26-271; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-272. Noise regulations.

(a) The engines used in connection with the drilling of any well and/or any production equipment shall be equipped with an exhaust muffler, or an exhaust muffler box, sufficient to

suppress noise and to prevent the escape of obnoxious gases, fumes or sparks or ignited carbon or soot.

(b) The operation of oil field production equipment, with the exception of equipment located in industrial zones set forth in the zoning regulations, shall not increase the ambient noise level at any given time by more than five decibels in any octave band, when measured at a distance of 50 feet from the oil field production equipment in question.

(c) The "ambient noise level," for the purpose of this section, shall be the average of sound level meter readings taken consecutively at any given time from four or more diametrically opposite positions within an area of not more than 500 feet, nor less than 200 feet from the oil field production equipment in question; all such readings shall be taken at such distance and in such a manner so as to obtain the surrounding noise level as distinguished from the noise level produced by the oil field production equipment. However, if the ambient noise level is less than 60 decibels, the production equipment shall not generate a noise level in excess of 60 decibels measured at a distance of 50 feet from such equipment. This section shall not apply to production equipment located 1,000 feet or more from the nearest occupied dwelling (except a dwelling occupied in connection with such oil field operations); and shall not generate a noise level in excess of 80 decibels at a distance of 50 feet from such production equipment. All sound level meter performance, including definitions and units, shall be in accordance with American Standards Association standards Z-24.1, Z-24.2 and Z-24.3, copies of which are on file in the office of the city secretary.

(d) No person, either as owner, agent or operator, shall conduct any drilling or re-drilling operations on any well located within 750 feet of any residential or commercial district if the sound pressure level of the drilling operation exceeds 60 dB(A) when measured at the nearest residential or commercial property line, unless all derricks and all drilling machinery which produce noise and which are used in connection with such drilling or re-drilling operations are enclosed with soundproofing material as provided in this section, and such soundproofing material shall be maintained in a clean and serviceable condition.

(e) No person, either as owner, agent or operator, shall conduct any drilling or re-drilling operations on any well located more than 750 feet from any residential or commercial district if the sound pressure level of the drilling operation exceeds 60 dB(A) when measured at the nearest residential or commercial property line, unless either:

(1) All derricks and all drilling machinery which produce noise and which are used in connection with such drilling or re-drilling operations are enclosed with soundproofing material as provided in this section; or

(2) Drilling or re-drilling operations are confined to daytime hours, except with the written permission of the city engineer.

(f) When soundproofing is required by the provisions of this section, such soundproofing shall comply with the following minimum specifications:

(1) Soundproofing acoustical blankets for the drilling derrick and accessory structures shall be fibrous glass insulation 1 1/2 inches thick, one-half pound per cubic foot density, 0.063 pounds per square foot weight, 0.00010 to 0.00015 fiber diameter (inches) with a phenolic binder having a temperature limit of 450 degrees Fahrenheit sewed between layers of fire-retardant vinyl fiberglass cloth, 15 to 17 ounces per square yard sewed with Dacron thread D-92 with stitches not more than six to the inch.

(2) The lacing cord shall be flat vinyl-coated tape composed of fibrous glass yarn braided, heat set and bonded. The tape shall have a 90-pound tensile strength. Grommets shall be

No. 4 brass. All doors and similar openings shall be kept closed during drilling operations, except for ingress and egress.

Alternate materials or methods of soundproofing may be used, provided that such alternative materials or methods have been approved by the city engineer. The city engineer may approve any such alternative if he finds that the proposed materials and methods offered are, for the purposes intended, at least the equivalent of that prescribed by this section, in quality, strength, effectiveness, fire resistance, durability and safety. The city engineer may require the submission of evidence to substantiate any claims that may be made regarding the use of such alternative. In order to substantiate claims for the use of alternate materials or methods, the city engineer may require tests as proof of compliance to be made at the expense of the operator. Test methods may be specified by the city engineer.

(g) Any person required to soundproof any well or curtail drilling or re-drilling operations pursuant to the provisions of this section may apply for a variance to the city council in accordance with section 26-220 for relief therefrom on a showing that no other person within 1,000 feet of such well is harmfully affected or annoyed as a result of the noise produced from the drilling or re-drilling operations.

(h) No well shall be drilled on any property that is utilized for recreational purposes, without the express written consent of the property owner. For the purposes of this section, the term "recreational purposes" shall include, but not be limited to, land devoted to recreational or leisure pursuits, such as playing fields or courts, publicly or privately owned parks or open space reserves, or publicly or privately owned and operated golf courses, driving ranges, or lakes. To the greatest extent practicable, slant drilling shall be utilized to access reserves under such recreationally used land, and such shall be given extra consideration by council when considering permits for land adjacent to recreationally used land.

(Code 2005, § 26-272; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-273. Derrick and rigs.

It shall be unlawful and an offense for any person to use or operate in connection with the drilling or reworking of any well within the corporate limits of the city any wooden derrick or any steam-powered rig, and all engines shall be equipped with adequate mufflers approved by the inspector. The drilling rig or derrick shall be removed from the premises within 30 days from the date of completion of the well, and thereafter, when necessary, such completed well shall be served by portable rigs, which shall be removed from the premises within 15 days from the completion of the servicing operation. At all times from the start of erection of a derrick or a mast, or a gin pole, until the well is abandoned and plugged or completed as a producer and enclosed as provided in this division, the operator shall keep a watchman on duty on the premises or a regular scheduled patrol at all times when other workmen of such operator are not on such premises.

(Code 2005, § 26-273; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-274. Pits.

The operator shall install and use a closed loop mud system and may not use slush, reserve or produced water pits, whether lined or not.

(Code 2005, § 26-274; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-275. Operations and equipment.

(a) All drilling and operations at any well performed by an operator under this division shall be conducted in accordance with the practices of a reasonable and prudent operator. All casing, valves and blowout preventers, drilling fluid, tubing, brandenhead, Christmas tree, and wellhead connections shall be of a type and quality consistent with such practice. Setting and cementing

casing and running drill stem tests shall be performed in a manner and at a time consistent with the practices of a reasonable and prudent operation. Each operator under this section shall observe and follow the regulations of the railroad commission.

(b) All operations relative to the design, installation, maintenance and operation of pipelines shall conform to the requirements of this division, state and federal law, or applicable code.

(c) All pipelines to be constructed in the city shall be tested prior to being placed in operation and the standard for testing will be the applicable state or federal codes. Valves shall be installed on all pipelines at such locations and spacing to safely and adequately control the operation of the line and to minimize the quantity of gas, oil or water that would be released from the line in case of line failure or rupture. The types and locations of all valves shall be indicated on a plan layout and as approved by the city engineer.

(d) Internal combustion engines or electrical equipment may be used in the drilling or pumping operations of the well, and if internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines so as to reduce noise to a minimum, all of such installations to be done in a manner satisfactory to the city engineer and all electrical installations to be done in a manner satisfactorily conforming with the applicable electrical code. Drilling operations must be conducted in such a manner that percolating water or groundwater will not be adversely affected, including the prevention of vertical movement of percolating water.

(e) Pipeline location markers shall be approved as to type and location by the applicable code.

(f) Design of pipelines crossing certain thoroughfares shall be subject to the approval of the city engineer.

(g) Except in the case of an emergency, no materials or equipment such as tools or pipes used for production or maintenance operations shall be delivered to or removed from the drilling site except during daytime hours on any day.

(h) Adequate firefighting apparatus and supplies shall be maintained on the drilling site at all times during drilling and production operations. No refining process or any process for the extraction of products from natural gas shall be carried on at the well site, except that separators may be maintained on the drilling site for the separation of liquids from natural gas.

(i) All production equipment used shall be so constructed and operated that no noise, vibration, dust, odor or other harmful or annoying substances or effects which can be eliminated or diminished by the operations are carried on at any well site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in methods of production shall be adopted as they from time to time become available, if capable of reducing factors of nuisance or annoyance. There shall be no unnecessary venting of gas into the open air. In the event of pumping units, no internal combustion engines are to be used except when approved by the city engineer.

(j) All injection wells shall be equipped in such a manner as to protect the existing fresh water supply and operated in compliance with the rules of the state railroad commission and the Texas Commission on Environmental Quality (TCEQ), or their successor agencies.

(k) Any operator operating an injection well shall conduct a 24-hour test for the purpose of determining the pressure differential between the surface pipe and the injection string of such well during each six calendar months and shall submit a report of such test to the city within ten days thereafter. If such test indicates a casing leak or communication between strings, the well shall be shut down immediately and corrective action taken.

(l) The well site shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the well or pipelines from the well or the production facilities allowed on the site.

(m) The city engineer shall inspect annually and at such other times as he deems necessary each active well and suspended well regulated by this division for the purpose of ascertaining whether the well is being operated or maintained in conformity with the minimum standards of this division. To meet the expense of such inspection, the operator shall pay to the city an annual inspection fee in the amount set by resolution and printed in Appendix D to this Code ~~forth in the approved fee schedule~~. The year for which each fee is applicable runs from July 1 to June 30. The fee shall be based upon the total number of wells in existence (whether active or not) on July 1. The fees shall be due no later than July 1 of the year to which they pertain. A reinspection fee shall be charged for each additional inspection required in the amount set by resolution and printed in Appendix D to this Code ~~forth in the approved fee schedule~~. The city engineer shall keep a permanent, accurate account of all annual inspection fees collected and received under this division, the name of the operator for whose account such fee was paid, the date and amount thereof, together with the well name and description and the general location of the well.

(n) No drilling, re-drilling, work or construction shall be done beyond the point indicated in each successive inspection without first obtaining the written approval of the city engineer and without giving notice within 48 hours prior to any work as described in this section is commenced, such notice to be given to the city dispatcher.

(1) *Site preparation.* The operator shall not commence drilling until the well location has been cleared and marked by a stake and inspected by the city engineer and approved in writing.

(2) *Commencement of drilling.* The city engineer shall be called and notified when the drilling derrick or mast has been erected and all necessary equipment to drilling operations has been installed.

(3) *Completion of drilling.* Upon completion of drilling operations, a site inspection request shall be called for and obtained within 30 days after completion of drilling operations.

(4) *Abandonment.* Any operations conducted in connection with the plugging or abandonment of any well shall be in compliance with all applicable rules promulgated by the railroad commission or other regulatory agency with jurisdiction, with suitable evidence of compliance submitted to the city.

(5) *Running and cementing pipe.* All running and cementing of pipe shall be in compliance with the rules of the railroad commission.

(Code 2005, § 26-275; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-276. Cleanliness and sanitation.

The premises where work is being performed under the terms of this division shall be kept in a clean and sanitary condition, satisfactory to the city engineer. The operator shall take reasonable precautions to prevent any mud, wastewater, oil, slush, or other waste matters from flowing into the alleys, streets or lots within the corporate limits of the city. However, should any of such materials flow into the alleys, streets, lots or leases within the corporate limits of the city, the owner or operator whose equipment is at fault will immediately, or as soon as possible, restore the damaged area as nearly as possible to its original or former condition.

(Code 2005, § 26-276; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-277. Storage tanks; separators.

It shall be unlawful and an offense for any person to use, construct or operate in connection with any producing well within the city limits any crude oil storage tanks, except to the extent of two tanks for oil storage, not exceeding 1,000 barrels capacity for each completion connected thereto, and so constructed and maintained as to be vaportight and properly vented. An operator may use, construct and operate a steel conventional separator, and such other approved tanks and appurtenances as are necessary for separating oil water mixtures and treating oil, with each of such facilities to be so constructed and maintained as to be vaportight. Each oil/gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head. Such tanks may be placed either underground or aboveground, and if aboveground shall be placed upon a suitable earth or concrete pad, and meet the following requirements:

(1) The use of a central tank battery is permitted so long as not more than two tanks as specified in this section are used for each well connected to the battery.

(2) The tank or tanks shall be enclosed within a conventional type firewall constructed of compacted earth. Sufficient water shall be used during the firewall construction to ensure adequate compaction. The firewall enclosing the tanks shall be of adequate size to contain 1 1/2 times the capacity of the tanks.

(3) The location of the tank site shall be approved by the city engineer.

(4) The tanks shall be recessed within the firewall enclosed to such depth as will ensure them of being practically sight clear when viewed from without the fenced enclosure and painted dark green or brown.

(5) The separators shall be installed in a manner that will ensure them of being practically sight clear when viewed from without the fenced enclosure and painted dark green or brown.

(Code 2005, § 26-277; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-278. Fire prevention.

(a) Any operator engaged in the drilling or operation of any oil and/or gas well or the operation of any facility used in conjunction with the production of oil and/or gas within the corporate limits of the city shall take reasonable precautions to prevent gas from escaping into the air, and shall not flare or burn gas from a torch or any similar means within the corporate limits of the city, provided that gas may be burned for a limited time when necessary to complete any oil and/or gas wells, so long as such burning does not constitute a fire hazard to the property of others within the vicinity of such oil and/or gas well.

(b) It shall be unlawful to operate a well for oil and/or gas without a four-inch header being laid over the top of the tank and a 2 1/2-inch line extending from the tank battery to a point designated by the city engineer. The manner and method provided for connection at such point shall be determined by the fire department so that foamite or other chemicals may be pumped through such line or lines and the header of the tanks into such tanks to extinguish fires in the tanks.

(c) Emergency firefighting apparatus and supplies, subject to the approval by the fire department, shall be maintained on the drilling site at all times during the drilling operations, and on the site of each compressor used for gas injection operations.

(Code 2005, § 26-278; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-279. Street and alley obstructions; permits.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is within any of the streets or alleys of the city and/or streets or alleys shown by the comprehensive master plan of the city, and no street or alley shall be blocked or encumbered or closed by any drilling, production or pipeline operation except by written approval of the city.

(Code 2005, § 26-279; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-280. Site security.

(a) At all times after the permanent screening is in place around a well site, a minimum of one security camera shall be mounted inside the enclosure of well sites located within a 1,000-foot radius of residential subdivision or public park. Signs shall be posted on the fence or wall of the site to indicate that activity on the site may be recorded by video surveillance. Camera systems shall be maintained in proper operating condition and shall be designed and located so as to meet the following requirements:

(1) Capture clear video images (day and night) of all traffic entering and exiting the gate;

(2) Capture clear video images (day and night) of all production equipment located on the site;

(3) Be equipped with motion detection technology;

(4) Be equipped with panning technology to pan immediately to any motion detected on the site;

(5) Show the date and time of all activity on the footage; and

(6) Be capable of being viewed remotely at the monitoring facility.

The operator shall maintain video data for a period of 72 hours. At the request of the city engineer or the fire marshal, the operator shall provide to the city any recorded views of the enclosed area.

(b) Within ten days of completion of the perimeter fencing, the operator shall install a fully operational security system that meets the following requirements:

(1) The operator shall install and maintain at all vehicular gates in the perimeter fencing a remotely monitored control access system. The system shall meet the following requirements:

a. The system shall be monitored by a central monitoring facility capable of monitoring security related alarm systems and meeting all required state and federal guidelines. The central monitoring facility shall be staffed and operational at all times.

b. Gate access shall be secured by an access control system with an unlocking and re-locking mechanism that requires a card, numeric code or other identification device for gate operation. The system shall record the identity of the entering party and the date and time of such entry.

c. The system shall include a gate closure contact sensor that will be activated when the gate closure sensor is violated in any manner by nonidentified access. The system shall be equipped to signal a control panel which activates an on-site audible signal and registers at the monitoring facility when an access breach is detected.

d. The security system shall include an open gate detection alarm to notify the monitoring facility if the gate closure sensors, once accessed, are not closed and thereby reactivated within five minutes of being opened.

e. The operator shall equip all gates with a motion sensor, weight sensor or other device to unarm the gate for vehicles exiting the site.

(2) The operator shall install an exit-only gate for personnel near the vehicular gate entrance.

(3) The operator shall obtain an alarm permit for the alarm system from the police department in accordance with the city's alarm ordinance. The monitoring facility shall notify the operator and the police department in case of security breach at the well site. The operator shall respond on-site with an authorized representative within 45 minutes of notification of alarm. Fees ~~fines~~ for false alarms shall be as set by resolution and printed in Appendix D to this Code ~~provided in the city fee schedule~~. The city engineer may suspend the well permit of any operator responsible for more than 20 false alarms in any calendar year.

(4) The operator shall install and maintain an audible alarm system at each well site to provide warnings for a substantial drop in pressure, the release of any gas or oil, or fire. Said alarm system shall be approved by the fire chief or his/her designee prior to beginning any drilling or production operations.

(Code 2005, § 26-280; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-281. Equipment appearance.

All production equipment shall be painted and maintained in proper working condition at all times, including, but not limited to, wellheads, pumping units, tanks, and buildings or structures. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of brown, or other neutral colors approved by the city engineer.

(Code 2005, § 26-281; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-282. Disposal wells.

No salt or wastewater disposal wells shall be located within the city.

(Code 2005, § 26-282; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-283--26-289. Reserved.

DIVISION 6. PIPELINES AND COMPRESSOR STATIONS

Sec. 26-290. Natural gas compressor stations.

(a) Natural gas compressor stations shall require a permit issued by the city council and shall be subject to the following requirements:

(1) A building permit shall be required for the compressor station.

(2) The compressor station shall be situated on a platted lot approved by the city and recorded in the county records.

(b) For the purpose of maintaining a visual buffer zone adjacent to dissimilar land uses, a minimum building setback for all compressor station buildings and equipment shall be established and maintained for all yards at the distances specified for the zoning district adjoining the compressor station as shown below.

(1) Table of building setbacks for compressor station buildings and equipment.

Adjoining Zoning District (applied to both base zoning and PUD districts)	*Required Building Setback (in feet--applied to all yards)*
SFR, SFR-E, MFR-GHD, MFR-L	500

MFR-M, MFR-H, MHR, CSC, NC ~~NG,~~ LNC	200
OPD, DD, A-1, L-1, I, BP	100

(2) Where an adjoining planned unit development (PUD) district contains more than one base zoning district, the most restrictive building setback shall be applied.

(3) Where a compressor station site adjoins a street right-of-way, the required building setback along that right-of-way shall be established by the zoning district designated for the property situated on the opposite side of the right-of-way.

(c) A wrought iron-type fence of sufficient height to obscure the entire station complex from public view shall be required along boundary lines that front a dedicated public street right-of-way of any type. Brick or stone columns shall be constructed on approximate 50-foot centers for such fence.

(d) All compressor station equipment and sound attenuation structures shall be enclosed within a building. Such building shall be designed with the following elements:

(1) A four-foot high masonry bulkhead wall shall be constructed on at least the two building facades most visible to the public.

(2) At least two building facades, specifically those most visible to the public, shall be constructed with a brick or stone accent that is at least 20 feet in width, and extends vertically to the roofline of the building and terminates with a sloped or arched profile.

(3) The roof shall be sloped with a pitch of no less than 5:12 and shall contain at least one raised structure in the form of a cupola, steeple tower, clearstory element or similar structure. No flat roofs shall be permitted.

(4) The nonmasonry wall surfaces may be constructed of painted metal, stucco or cementitious fiberboard material. Engineered wood paneling shall not be permitted for the finished exterior.

(5) The architectural design of the building shall be compatible with the visual context of the surrounding development. The building may be designed as a representation of, but not be limited to, the following building types:

a. Barn structure or equestrian facility.

b. Estate residence.

c. School facility or similar institutional use.

d. Gazebo or picnic area enclosures.

e. Club house or recreational facility.

f. Retail or office building.

g. Any combination of the above as approved by the city.

(e) Vehicular access to the boundaries of the compressor station site from the street thoroughfare shall be paved with a concrete surface at a thickness and design approved by the city engineer. This provision shall also apply to those areas inside the boundaries of the compressor station site where vehicular traffic and parking is to occur.

(f) The operation of the equipment shall not create any noise that causes the exterior noise level to exceed the predevelopment ambient noise levels as measured within 300 feet of the compressor station building. The compressor station operator shall be responsible for establishing

and reporting to the city the predevelopment ambient noise level prior to the issuance of the building permit for the compressor station.

(g) The compressor station site shall be landscaped in a manner that is compatible with the environment and existing surrounding area.

(Code 2005, § 26-290; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-291. License for conduits on streets and alleys.

(a) No person shall make any excavations for any purpose or construct any lines for conveyance of fuel, water or minerals on, under or through the streets or alleys of the city without the express permission of the city council in writing, and then only in strict compliance with the ordinances of the city.

(b) The pipeline shall be tested in accordance with the current railroad commission regulations in accordance with the appropriate pipeline codes.

(c) The companies responsible for any and all pipelines now existent or to be installed within the corporate limits of the city are hereby required to furnish the city as-built plan drawings, along with design data showing test pressure, cathodic protection details, pipe size, wall thickness, type of pipe, operating pressure, depth, monitoring equipment, and control system details for all their facilities for permanent record with the city. Such information shall be supplied in the formats as prescribed by the city engineer. The requirements of this section shall not apply to those pipelines with a mineral lease used for gathering, injection, or other such lines associated with oil and/or gas production.

(d) All pipelines within the corporate limits of the city, other than utility lines of the city and the franchise distribution system of the franchisee, designed or utilized to transport oil, gas or water in connection with the production and transportation of oil and/or gas or for repressurizing operation, shall be installed with the minimum of cover or backfill specified by the applicable code, state or federal law for such pipelines.

(e) The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any street, or leaving upon any street any earth or other material or obstruction, shall not be permitted unless the persons desiring to perform such work shall first have obtained written permission from the city engineer.

(f) The following are exceptions to this section:

(1) Work done in new developments of the city by utility and street contractors under and in conformity with the city's subdivision policy.

(2) Work done by the city or under city contract and under directions of the city.

(3) Work done by public utility companies who operate under a current franchise for the city is exempt from the bond and insurance provisions of this section, when such work is in connection with the distribution of the product of such utility.

(4) Work done by plumbers who are qualified and bonded with a valid license from the state is exempt from the bond and insurance provisions of this section, but must comply with the balance of the provisions of this division.

(g) No permit for construction within public rights-of-way shall be issued unless the written application is accompanied with plans and descriptions, and unless such plans and descriptions are approved by the city engineer.

(Code 2005, § 26-291; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-292. Permits.

(a) An application shall be required for the installation of a pipeline. The application shall include all information required by this division, including the following:

(1) Date of the application.

(2) Name, ~~and~~ address and primary e-mail address of applicant.

(3) Name, ~~and~~ address and primary e-mail address of pipeline operator, including representative to contact for operations after installation.

(4) Name, ~~and~~ address and primary e-mail address of installation contractor.

(5) The name, address and primary e-mail address of person to be notified in case of emergency (24-hour).

(6) Operations control center 24-hour contact number and location.

(7) Proposed route for the pipeline, including specific locations for any drill sites, wells, gathering lines, distribution lines, valves, and control station facilities.

(8) Type of installation method.

(9) Type of equipment to be used during installation.

(10) Detailed design drawings certified by a professional engineer licensed in the state with all basic design criteria for the pipeline, including, but not limited to, pipe specifications, valve specifications, alignment maps, depth of cover.

(11) A copy of the approved permit from state railroad commission (W-1, T-4).

(12) The city ROW construction permit.

(13) Right-of-way permits for crossing any Galveston County drainage district, Harris County flood control district, and Corps of Engineers drainage easements.

(14) Permission from land owner for crossing any property or easements not owned by the city.

(15) Insurance for replacement cost for damages as a result from pipeline installation.

(16) A filing fee in the amount set by resolution and printed in Appendix D to this Code ~~forth in the city's fee schedule~~.

(17) The proposed pipeline fact sheet.

(b) The application shall be insufficient if the data therein fails to set forth such information and details as to reasonably assure the city that all provisions have be complied with and that the health, safety and welfare of the residents of the city will not be endangered by the design, operations and methods from the proposed pipeline.

(Code 2005, § 26-292; Ord. No. 2012-36, § 2, 2-4-2013)

Chapters 27--29

RESERVED

Chapter 30

FIRE PROTECTION AND PREVENTION*

***State law reference**—Public safety, V.T.C.A., Local Government Code ch. 341 et seq.; safety, V.T.C.A., Health and Safety Code ch. 751 et seq.; home rule municipality, fire department, V.T.C.A., Local Government Code § 342.011; appointment of fire protection personnel, ~~V.T.C.A., Government Code § 410.032; firefighter qualifications and training,~~ V.T.C.A., Government Code § 419.032; fire regulations ~~escapes~~, V.T.C.A., Health and Safety Code ch. 791~~§ 791.001~~ et seq.

ARTICLE I. IN GENERAL

Sec. 30-1. Arson reward.

The city hereby offers a reward of $500.00 for the arrest and conviction of any person or persons found guilty of committing the crime of arson within the city. This reward is a standing offer, and shall be paid out of the general fund of the city.

(Code 1974, § 7-1; Code 1994, § 30-1; Code 2005, § 30-1)

State law reference—Crime of arson, V.T.C.A., Penal Code § 28.02; crime stoppers, V.T.C.A., Government Code ch. 414.

Secs. 30-2--30-20. Reserved.

ARTICLE II. FIRE MARSHAL*

***State law reference**—State fire marshal, V.T.C.A., Government Code § 417.001 et seq.

Sec. 30-21. Office created; appointment.

The office of fire marshal is created. Such office shall be independent of other city departments, and the fire marshal shall report directly to the city manager. Such office shall be filled by appointment by the city manager.

(Code 1974, § 7-24; Code 1994, § 30-26; Code 2005, § 30-21)

Sec. 30-22. Investigations; taking testimony; arrest of offenders.

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 such testimony 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, he shall cause such person to be lawfully arrested and charged with such offense, 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.

(Code 1974, § 7-26; Code 1994, § 30-27; Code 2005, § 30-22)

Sec. 30-23. Summoning witnesses; subpoenaing books; administering oaths.

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

(Code 1974, § 7-27; Code 1994, § 30-28; Code 2005, § 30-23)

Sec. 30-24. Refusal of witness to testify, etc.

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 on 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 such investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as provided in this article, 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.

(Code 1974, § 7-28; Code 1994, § 30-29; Code 2005, § 30-24)

Sec. 30-25. Closing hearing.

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 1974, § 7-29; Code 1994, § 30-30; Code 2005, § 30-25)

Sec. 30-26. Right of entry after fire.

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 such building, which authority shall be exercised only with reason and good discretion.

(Code 1974, § 7-30; Code 1994, § 30-31; Code 2005, § 30-26)

Secs. 30-27--30-55. Reserved.

ARTICLE III. FIRE CODES

DIVISION 1. GENERALLY

Secs. 30-56--30-83. Reserved.

DIVISION 2. INTERNATIONAL FIRE CODE*

***State law reference—**Fire protection, V.T.C.A., Local Government Code § 342.001 et seq.

Sec. 30-84. International Fire Code adopted; amendments.

The International Fire Code, 2012 Edition, including appendices B through J, as published by the International Code Council, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this division, except as follows:

(1) Section 101.1 is hereby amended to read as follows:

101.1 *Title.* These regulations shall be known as the Fire Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

(2) Section 108 is hereby amended to read as follows:

108 *Board of appeals.* The city zoning board of adjustment and appeals shall act as the fire and life safety code board of adjustment and appeals.

(3) Section 109.4 is hereby deleted in its entirety.

(4) Section 305.5 is hereby added to read as follow:

305.5 Sky lanterns prohibited. Sky lanterns; or other devices that behave as airborne incendiary devices; shall not be used, ignited, flown, or deployed.

(5) Section 508.5.1 is hereby amended to read as follows:

508.5.1 *Where required*. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the code official.

(6) Section 903.2 is hereby amended to read as follows:

903.2 *Where required*. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section, when the gross square footage of the building or structure exceeds 11,999 square feet, or when the area under one roof is capable of having two or more floors above or below grade with any one floor exceeding 5,999 square feet.

(7) The term "fire chief" will be changed to "fire code official" in the following sections: 503.6; 909.15; 912.2; 912.2.1; 912.3; 912.3.2; C105.1; D103.2.

(Code 1994, § 30-61; Code 2005, § 30-84; Ord. No. 2002-19, § 20, 11-18-2002; Ord. No. 2005-04, § 1, 1-17-2005; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-84), § 5-2-2016)

Sec. 30-85. Applicable definitions.

(a) Wherever the term "municipality" is used in the International Fire Code, it ~~shall be held to~~ means this city.

(b) Wherever the term "corporation counsel" is used in the International Fire Code, it ~~shall be held to~~ means the city attorney.

(c) Wherever the term "fire code official" is used in the International Fire Code, it ~~shall~~ means the fire marshal of the city.

(Code 1974, § 7-8; Code 1994, § 30-62; Code 2005, § 30-85; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-85), § 5-2-2016)

Sec. 30-86. New materials, processes or occupancies which require permits.

The city council, city manager and the fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in the International Fire Code. The fire marshal shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

(Code 1974, § 7-11; Code 1994, § 30-63; Code 2005, § 30-86; Ord. No. 2005-04, § 2, 1-17-2005; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-86), § 5-2-2016)

~~**Sec. 30-87. Penalty for violation of article.**~~

~~Any person who shall violate or cause to be violated any provision of this article or any code adopted hereby, or who shall fail to comply therewith or with any of the requirements thereof, shall, upon conviction thereof, be punished pursuant to section 1-14.~~

~~(Code 1974, § 7-12; Ord. No. 90-36, § 7, 1-7-1991; Ord. No. 93-1, § 8, 2-15-1993; Code 1994, § 30-64; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-87), § 5-2-2016)~~

Secs. 30-87--30-117. Reserved.

DIVISION 3. LIFE SAFETY CODE

Sec. 30-118. Life Safety Code adopted.

The 2012 Edition of the Life Safety Code, including all appendices thereto, as published by the National Fire Protection Association, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this division, except as follows:

Section 24.3.5.1 is deleted of Chapter 24, One- and Two-Family Dwellings, Extinguishment Requirements.

(Code 1994, § 30-76; Code 2005, § 30-118; Ord. No. 2002-19, § 21, 11-18-2002; Ord. No. 2005-04, § 3, 1-17-2005; Ord. No. 2010-13, § 3, 4-19-2010; Ord. No. 2016-22, § 3(30-118), § 5-2-2016)

~~**Sec. 30-119. Penalty for violation of article.**~~

~~Any person violating any provision of this article shall, upon conviction thereof, be punished pursuant to section 1-14.~~

~~(Ord. No. 90-29, § 2, 11-5-1990; Code 1994, § 30-77; Ord. No. 2010-13, § 3, 4-19-2010; Ord. No. 2016-22, § 3(30-119), § 5-2-2016)~~

Sec. 30-119. Appeals.

Whenever the fire marshal shall disapprove an application or when it is claimed that the provisions of the Life Safety Code do not apply or that the true intent and meaning of such code has been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire marshal to the building codes board of adjustments and appeals within 30 days from the date of the decision appealed.

(Code 1994, § 30-78; Code 2005, § 30-120; Ord. No. 90-29, § 3, 11-5-1990; Ord. No. 2010-13, § 3, 4-19-2010; Ord. No. 2016-22, § 3(30-120), § 5-2-2016)

Secs. 30-120--30-138. Reserved.

ARTICLE IV. FIREWORKS*

***State law reference**—Authority of municipality to regulate the use of fireworks, V.T.C.A., Local Government Code § 342.003; state law does not preempt municipal authority to prohibit or regulate use of fireworks, V.T.C.A., Occupations Code § 2154.004; regulation of fireworks and fireworks displays, V.T.C.A., Occupations Code § 2154.001 et seq.; fireworks use, displays and regulations, 28 Tex. Admin. Code § 34.801~~0~~ et seq.

Sec. 30-139. 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:

Distributor means those who sell fireworks to retailers or to jobbers, for resale to others.

Fireworks, as described in V.T.C.A., Occupations Code § 2154.001(5), means any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration or detonation, such as firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs, or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether specially designated and defined in this section or not.

Fireworks 1.3G means a large fireworks device:

(1) Primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and

(2) Classified as a 1.3G explosive by the department in 49 CFR 173 (1996).

Fireworks 1.4G means a small fireworks device:

(1) Primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;

(2) That complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 CFR 1507 (1996), or the most recently adopted version of that rule; and

(3) That is classified as a 1.4G explosive by the department in 49 CFR 173 (1996).

Importer means those who import fireworks from a foreign country for sale to distributors, jobbers or retailers within the state.

Jobber means those who purchase fireworks for resale to consumers only.

Manufacturer means persons that are engaged in the making of fireworks.

Person means and includes any natural person, association of persons, partnership, corporation, agent or officer of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors and administrators.

Public display means the igniting and shooting of fireworks for public amusement.

Retailers means those who purchase fireworks for resale to consumers only.

(Code 1974, § 7-46; Code 1994, § 30-91; Code 2005, § 30-139)

Sec. 30-140. General prohibition.

Except as otherwise specifically provided in this article, it shall be unlawful for any person to sell, offer to sell, or have in his possession with intent to sell, keep, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

(Code 1974, § 7-47; Code 1994, § 30-92; Code 2005, § 30-140)

Sec. 30-141. Exceptions.

The general prohibition as set forth in section 30-140 shall not apply to the following:

(1) A toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 0.25 of a grain of explosive composition per cap and that is packed and shipped under 49 CFR 173 (1996);

(2) A model rocket or model rocket motor designed, sold, and used to propel recoverable aero models;

(3) A propelling or expelling charge consisting of a mixture of sulfur, charcoal and potassium nitrate;

(4) Novelties or trick noisemakers;

(5) The sale, at wholesale, of any type of fireworks by a resident manufacturer, distributor, importer, or jobber if the fireworks are intended for shipment directly out of state under department regulations;

(6) The sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation or highway use;

(7) The use of a fusee or a railway torpedo by a railroad;

(8) The sale of blank cartridges for:

a. Use in a radio, television, film or theater production;

b. A signal or ceremonial purpose in an athletic event; or

c. An industrial purpose;

(9) The use of a pyrotechnic device by a military organization;

(10) It shall not be unlawful, upon a permit issued by the fire marshal, for any person engaged in any organized play, legitimate theatrical performance, circus or other show designed for the amusement and edification of the general public to use, discharge or cause to be discharged and ignited fireworks as a part of an act, performance, play or circus, so long as such person does not also engage in the retailing, wholesaling, selling or distribution of any of such fireworks. The fire marshal shall cause to be made an investigation of each application made under this article to determine whether the use of such fireworks as proposed shall be of such a character that it may be hazardous to property or dangerous to any person and he shall, in the exercise of reasonable discretion, grant or deny the application for such permit.

(Code 1974, § 7-48; Code 1994, § 30-93; Code 2005, § 30-141)

State law reference—Exemptions from state fireworks regulations, V.T.C.A., Occupations Code § 2154.002.

Sec. 30-142. Public displays exempted.

The provisions of section 30-140 shall not apply to a public display of fireworks made under the terms and conditions of this section, and such display shall be permitted upon compliance with the provisions of this section, as follows:

(1) Any adult person or any firm, copartnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire marshal at least 48 hours in advance of the date of the proposed display.

(2) It shall be the duty of the fire marshal to make an investigation as to whether the display as proposed by the applicant for a permit under this article shall be of such a character that it may be hazardous to property or dangerous to any person, and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. If the application is approved, a permit shall be issued for the public display by the fire marshal. Such permit shall be for a period of time designated on the permit, but shall not exceed 14 days, and the permit shall not be transferable. If the application is denied by the fire marshal, he shall notify the applicant of the denial in writing.

(3) The applicant for a display permit under this section shall, at the time of making application, furnish proof that he carries compensation insurance for his employees as provided by the laws of the state, and he shall file with the fire marshal a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than that required under V.T.C.A., Occupations Code § 2154.205.

(4) The range of aerial displays shall not be more than 200 feet and the fireworks shall be discharged vertically from steel tubes.

(5) The limit of a display authorized by this section shall be not more than 30 minutes per performance, and there shall not be more than two performances in each 24 hours.

(6) No public display of fireworks shall be of such a character and so located, discharged or fired as to be hazardous or dangerous to persons or property, and this determination shall be within the sound discretion of the fire marshal.

(7) The persons handling the display of fireworks under this section shall be competent, adult persons and experienced pyrotechnic operators approved by the fire marshal. No person not approved by the fire marshal shall handle fireworks at the public display. The names of the experienced pyrotechnic operators shall be designated on the permit issued.

(8) For each public display of fireworks under this section, not less than two firefighters of the city shall be in attendance during the display. The expense of such firefighters at the display shall be borne by the applicant for the permit and shall be paid in advance at the time of the application for the permit.

(9) The material to be used for a public display authorized by this section shall not be stored within the city limits, but shall be brought in on the day of the public display and then shall be taken immediately to the place of display for further handling and storage.

(Code 1974, § 7-49; Code 1994, § 30-94; Code 2005, § 30-142)

State law reference—Public display permit, V.T.C.A., Occupations Code § 2154.204; insurance requirement for public display permit, V.T.C.A., Occupations Code § 2154.205.

Sec. 30-143. Illegal fireworks declared nuisance; seizure and destruction.

(a) The presence of any fireworks within the city and within the area immediately adjacent and contiguous to the city limits extending for a distance outside of such city limits for a total of 5,000 feet, in violation of this article, is hereby declared to be a common and public nuisance. The fire marshal is directed and required to seize any fireworks found in violation of this article and any authorized deputy of the fire marshal, or any police officer of the city, or any other duly constituted state peace officer is empowered to stop the transportation of and detain any fireworks being transported illegally or to close any building where any fireworks are found stored illegally until the fire marshal can be notified in order that such fireworks may be seized in accordance with the terms of this article.

(b) Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city, the fire marshal, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the city or within the 5,000-foot area described in subsection (a) of this section. It shall not be necessary to obtain injunctive relief as a prerequisite to seizure of fireworks.

(c) This section shall not apply within any portion of the 5,000-foot area described in subsection (a) of this section which is contained within the territory of any other incorporated city, town or village.

(Code 1974, § 7-50; Code 1994, § 30-95; Code 2005, § 30-143)

State law reference—Extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.001 et seq.; seizure of illegal fireworks, V.T.C.A., Occupations Code § 2154.304.

Sec. 30-144. Penalty for violation of article.

Any person who shall manufacture, assemble, store or possess fireworks in violation of this article shall, upon conviction, be punished for a misdemeanor violation ~~pursuant to section 1-14~~. If fireworks are separately wrapped or packaged, the commission or omission of any act prohibited by this article shall be a separate offense as to each such separately wrapped or separately packaged fireworks.

(Code 1974, § 7-51; Code 1994, § 30-96; Code 2005, § 30-144)

Sec. 30-145. Permitted transportation; identification.

It shall not be an offense under this article for a person to transport fireworks 1.4G, as defined in state law, by motor vehicles which meet the federal requirements for transporting fireworks

1.4G along and upon Farm to Market Road 528, either within the city limits or within 5,000 feet of the corporate boundaries of the city. Vehicles used for transportation of fireworks shall be provided with a sign on each side reading "Fireworks." The sign shall have a white background with red letters at least six inches in height and a minimum width of not less than three-fourths of an inch.

(Code 1974, § 7-52; Code 1994, § 30-97; Code 2005, § 30-145)

Chapters 31--33

RESERVED

Chapter 34

FLOODS*

ARTICLE I. IN GENERAL

Secs. 34-1--34-18. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION*

***State law reference**—Soil and water conservation, V.T.C.A., Agriculture Code ch. 201; emergency management, V.T.C.A., Government Code ch. 418; Flood Control and Insurance Act, V.T.C.A., Water Code § 16.311 et seq.; local rules, V.T.C.A., Water Code § 16.318; local governments must adopt ordinances necessary for jurisdiction to qualify for National Flood Insurance Program, V.T.C.A., Water Code § 16.3145; political subdivision to comply with Federal requirements, V.T.C.A., Water Code § 16.315.

DIVISION 1. GENERALLY

Sec. 34-19. 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:

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

Area of 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 ratemaking has been completed in preparation for publication of the flood insurance rate map (FIRM), zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE and/or V.

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

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

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

Elevated building means a nonbasement building built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor or, in the case of a building in zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X and D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE or V, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction or *existing structures* 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.

FEMA means the Federal Emergency Management Agency.

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

(1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards and which have been designated as zones A, M and/or E.

Flood insurance rate map (FIRM) means an official map of the city, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

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 areas 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 being inundated by water from any source (see *Flooding*).

Floodway or *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.

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

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

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished 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 requirements of section 60.3 of the National Flood Insurance Program regulations.

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

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 ~~National Geodetic Vertical Datum (NGVD) of 1929~~, or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs 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. The term "permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, 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-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (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 ~~National Geodetic Vertical Datum (NGVD) of 1929~~ (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1974, § 4-25; Code 1994, § 34-26; Code 2005, § 34-19; Ord. No. 99-30, § 1, 9-27-1999)

State law reference—Definitions relating to Flood Control and Insurance Act, V.T.C.A., Water Code § 16.313.

Sec. 34-20. Statutory authorization.

The legislature of the state has in V.T.C.A., Water Code § 16.311 et seq., delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain the provisions set out in this article to be its regulations governing flood damage prevention.

(Code 1974, § 4-21; Code 1994, § 34-27; Code 2005, § 34-20)

Sec. 34-21. Findings of fact.

The city finds that:

(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.

(Code 1974, § 4-22; Code 1994, § 34-28; Code 2005, § 34-21)

Sec. 34-22. 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;

(7) Ensure that potential buyers are notified that property is in a flood area; and

(8) Preserve floodplain storage through mitigation.

(Code 1974, § 4-23; Code 1994, § 34-29; Code 2005, § 34-22; Ord. No. 2003-08, § 1, 7-7-2003)

Sec. 34-23. Lands to which this article applies.

This article shall apply to all areas within the jurisdiction of the city.

(Code 1974, § 4-26; Code 1994, § 34-30; Code 2005, § 34-23; Ord. No. 90-19, § 1, 9-20-1990)

Sec. 34-24. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Friendswood, Texas, Galveston and Harris Counties," dated September 22, 1999, with accompanying flood insurance rate map and flood boundary-floodway maps (FIRM and FBFM), and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

(Code 1974, § 4-27; Code 1994, § 34-31; Code 2005, § 34-24; Ord. No. 99-30, § 2, 9-27-1999; Ord. No. 2007-20, § 2, 12-17-2007; Ord. No. 2017-36, § 2, 12-4-2017)

Sec. 34-25. Compliance.

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

(Code 1974, § 4-28; Code 1994, § 34-32; Code 2005, § 34-25)

Sec. 34-26. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance or regulation conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1974, § 4-29; Code 1994, § 34-33; Code 2005, § 34-26)

Sec. 34-27. Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the city council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1974, § 4-30; Code 1994, § 34-34; Code 2005, § 34-27)

Sec. 34-28. 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 city or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1974, § 4-31; Code 1994, § 34-35; Code 2005, § 34-28)

~~**Sec. 34-29. Penalty for violation of article.**~~

~~Any person who shall violate any provision of this article shall, upon conviction, be punished pursuant to section 1-14.~~

~~(Ord. No. 90-19, § 3, 9-20-1990; Code 1994, § 34-36)~~

Sec. 34-29. Floodplain administrator--Designation.

The city manager is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

(Code 1974, § 4-32; Code 1994, § 34-37; Code 2005, § 34-30)

Sec. 34-30. Same--Duties and responsibilities.

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 proposed building sites 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 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 state water commission, 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 34-24, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source in order to administer the provisions of division 2 of this article.

(Code 1974, § 4-33; Code 1994, § 34-38; Code 2005, § 34-31)

Sec. 34-31. Development permit--Establishment.

A development permit shall be required to ensure conformance with the provisions of this article. The permit fee shall be set by resolution and printed in Appendix D to this Code. A development permit is required for all development-related activity in the floodplain, including, but not limited to:

(1) Construction of new structures;

(2) Modifications or improvements to existing structures;

(3) Excavation;

(4) Filling;

(5) Paving;

(6) Drilling;

(7) Driving of piles; and

(8) Grading.

(Code 1974, § 4-34; Code 1994, § 34-39; Code 2005, § 34-32; Ord. No. 2003-08, § 2, 7-7-2003)

Sec. 34-32. Same--Procedures.

(a) Application for a development permit shall be presented to the floodplain administrator on a form furnished by him and may include, but not be limited to, plans in duplicate, drawn to scale, showing the location, dimensions and elevation or proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(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 34-61(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) Maintenance of a record of all such information in accordance with section 34-30(1).

(6) A mitigation plan identifying all cut and fill activities occurring within the areas of special flood hazard. This mitigation plan will include all necessary calculations and shall be signed and sealed by a registered professional engineer.

(7) Mitigation activities shall be fully implemented prior to any other development-related activities commence on any given site.

(b) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

(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.

(10) The relationship of the proposed use to the comprehensive plan for the area.

(Code 1974, § 4-35; Code 1994, § 34-40; Code 2005, § 34-33; Ord. No. 2003-08, § 3, 7-7-2003)

Sec. 34-33. Variance procedures.

The following shall regulate variances from the provisions of this article:

(1) The appeal board, as established by the city, shall hear and render judgment on requests for variances from the requirements of this article.

(2) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.

(3) Any person aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places without regard to the procedures set forth in the remainder of this section.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in section 34-32(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted in this section 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.

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Prerequisites for granting variances 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 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, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(10) Variances may be issued by the city for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria outlined in subsections (1) through (9) of this section are met, and 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 1974, § 4-36; Code 1994, § 34-41; Code 2005, § 34-34)

Sec. 34-34. Stormwater management.

(a) Prior to the issuance of any development permit, except for permits for developments in areas wholly outside areas of special flood hazards where it is determined by the city engineer as unnecessary due to the existence of sufficient available data, the applicant shall submit a hydrological analysis showing the impact and potential adverse effects of increased runoff attributable to such proposed development from a 100-year frequency storm on downstream areas. Drainage improvements shall be required in accordance with the following:

(1) Where new developments do not aggravate downstream flooding problems, they shall not be required to provide either on-site storage or off-site improvements.

(2) Where new developments may aggravate downstream flooding, the developer shall compensate for the increased flood flows by providing downstream improvements which provide capacity to handle the increased flows.

(3) Where downstream improvements may be so extensive as to be uneconomical for the proposed development or not be feasible because of right-of-way or other limitations, new developments may provide on-site storage improvements sized and constructed as to eliminate any adverse drainage impact downstream.

(4) If it is not feasible for new development to analyze all downstream conditions, such new development may provide on-site storage of sufficient capacity to limit the developed peak discharge from the storage systems to that which would have flowed from the development in its natural undeveloped state. The stormwater runoff rate from a development after its completion shall not exceed the runoff rate for the land area prior to its development as determined by the 100-year frequency storm. Drainage calculations modeled to accomplish this purpose and the inflow-outflow hydrographs supplied for the area will be supplied with construction drawings and along with all other calculations for drainage.

The storage systems designed to accomplish this purpose shall not be closer to any water-bearing strata than one foot and shall have soil borings from a certified laboratory to substantiate this fact, and these results will be supplied with the design engineer's stamp on them to the city engineer before construction can begin. The type and geometrical shape of the storage system is independent and left to the design of the developer's engineer, but should include a cross section for flow up to a five-year frequency storm and the second cross section should be for the storage of additional stormwater to the 100-year interval. The area used for this purpose is to be maintained by the developer.

(b) No development shall proceed until approval has been granted by the city engineer for the plans, specifications and flood control measures for such development as required under this section.

(Code 1994, § 34-42; Code 2005, § 34-35; Ord. No. 90-19, § 2, 9-20-1990)

Secs. 34-35--34-58. Reserved.

DIVISION 2. FLOOD HAZARD REDUCTION

Sec. 34-59. Methods of reducing flood losses.

In order to accomplish its purposes, this division 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 1974, § 4-24; Code 1994, § 34-56; Code 2005, § 34-59)

Sec. 34-60. General standards.

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 and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1974, § 4-37; Code 1994, § 34-57; Code 2005, § 34-60)

Sec. 34-61. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 34-33, the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structures shall have the lowest floor, including basement, elevated to 24 inches above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in article, 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 24 inches above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review the 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) *Manufactured homes.*

a. All manufactured homes to be placed within zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with subsection (1) of this section.

(Code 1974, § 4-38; Code 1994, § 34-58; Code 2005, § 34-61; Ord. No. 2003-08, § 4, 7-7-2003)

Sec. 34-62. Maintenance of on-site stormwater storage facilities.

(a) In each case where an on-site stormwater storage facility is provided pursuant to this article, the developer shall furnish evidence of acceptance for maintenance of such storage facility to the Galveston County Consolidated Drainage District (GCCDD)~~Clear Creek Drainage District (CCDD)~~, having authority to perform such service. The Galveston County Consolidated Drainage District (GCCDD)~~Clear Creek Drainage District (CCDD)~~will agree to assume such responsibility, provided the developer:

(1) Dedicates to the city and GCCDD an easement over and across such facility;

(2) Dedicates an access easement to such facility to the city and GCCDD; and

(3) Pays to the entity who is maintaining such facilities, whether the city or GCCDD, the estimated cost of maintaining such storage facility for a period of ten years, as stated on the fee schedule in the drainage criteria manual.

Provided further, if the on-site stormwater storage facility is designed to be a "dry" facility and not an amenity or a private recreational facility. Amenity ponds shall be defined as any pond whose land area has been deeded to the homeowners/landowners for the benefit of the homeowners/landowners and are to be maintained by the homeowners'/landowners' association. These ponds shall include "wet ponds" and ponds used for recreational purposes.

(b) For the purposes of this section, the term "stormwater storage facility" means a stormwater storage facility serving primarily as a collection device and not as a transmission system, and which is designed and constructed for the purpose of providing on-site detention for the benefit of a multiparcel development, and not for a single lot or single parcel development.

(Code 1994, § 34-59; Code 2005, § 34-62; Ord. No. 91-7, § 1, 2-26-1991; Ord. No. 98-36, § 1, 1-4-1999)

Sec. 34-63. Special lowest floor elevation requirements.

(a) Notwithstanding any other provision contained in this article to the contrary, in zone AE, lowest floor elevations shall be a minimum of 24 inches above the elevation given on the latest FEMA FIRM panel for the city. When building location falls between elevations, the elevation may be interpolated to the nearest one-half foot.

(b) Notwithstanding any other provision contained in this article to the contrary, in zone AO, lowest floor elevations shall be 36 inches higher than the centerline of the road in curb and gutter streets, or the high bank of a roadside ditch on streets with open ditch drainage.

(c) Notwithstanding any other provision contained in this article to the contrary, in zone X shaded, lowest floor elevations shall be a minimum of 24 inches higher than the adjacent natural grade.

(d) Notwithstanding any other provision contained in this article to the contrary, in zone X unshaded, lowest floor elevation shall be as follows:

(1) On curb and gutter streets, the elevation shall be a minimum of 18 inches above the top of curb or a minimum of 12 inches above the adjacent natural grade, whichever is greater.

(2) On streets with open ditches, slab elevations shall be a minimum of 18 inches higher than the center of the street or a minimum of 12 inches higher than the adjacent natural grade, whichever is greater.

(e) For the purposes of this section, the term "adjacent natural grade" means the natural ground adjacent to the slab at its centerline paralleling the front of the structure. Natural ground is assumed to be the ground surface existing prior to placement of the building pad.

(f) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor ~~and, upon conviction, shall be fined pursuant to section 1-14~~.

(Code 1994, § 34-60; Code 2005, § 34-63; Ord. No. 90-26, §§ 1, 2, 10-15-1990; Ord. No. 2003-08, § 5, 7-7-2003)

Sec. 34-64. Standards for subdivision proposals.

(a) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with sections 34-21, 34-22 and 34-59.

(b) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirements of sections 34-32 and 34-26, and the provisions of this division.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 34-24.

(d) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(Code 1974, § 4-39; Code 1994, § 34-61; Code 2005, § 34-64)

Sec. 34-65. Floodways.

Property located within areas of special flood hazard as established in section 34-24 are areas designated as floodways. The council finds that floodways are extremely hazardous areas due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, and the following provisions shall therefore apply to these areas in order to protect the public health, safety, and welfare and to protect private property:

(1) Encroachments into the floodway shall be prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through a no-rise certificate using hydrologic and hydraulic analyses performed in accordance with standard engineering practices 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 34-60 through 34-64, and other applicable regulations of the city or provisions of this article.

(3) Under the provisions of 44 CFR 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 applies for a conditional FIRM and floodway revision through FEMA.

(Code 1994, § 34-62; Code 2005, § 34-65; Ord. No. 99-30, § 3, 9-27-1999; Ord. No. 2003-08, § 6, 7-7-2003)

Chapters 35--37

RESERVED

Chapter 38

HEALTH AND SANITATION*

***State law reference**—Health and safety generally, V.T.C.A., Health and Safety Code ch. 1 et seq.; health and the safety of food, V.T.C.A., Health and Safety Code § 431.001 et seq.

ARTICLE I. IN GENERAL

Secs. 38-1--38-18. Reserved.

ARTICLE II. FOOD AND FOOD SERVICE ESTABLISHMENTS*

***State law reference**—Minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code ch. 341; Texas Food, Drug, and Cosmetic Act, V.T.C.A., Health and Safety Code ch. 431; food service establishments, retail food stores, mobile food units and roadside food vendors, V.T.C.A., Health and Safety Code ch. 437; public health measures relating to food, V.T.C.A., Health and Safety Code ch. 438; municipal regulatory authority concerning food service employees not preempted by state regulation, V.T.C.A., Health and Safety Code § 438.037; municipality which is member of public health district not prohibited from regulating or administering permit system concerning food service establishments, V.T.C.A., Health and Safety Code § 437.004(d).

DIVISION 1. GENERALLY

Secs. 38-19--38-39. Reserved.

DIVISION 2. FOOD HANDLERS*

***State law reference**—Food handlers, V.T.C.A., Health and Safety Code § 438.031 et seq.

Sec. 38-40. Requirements generally.

(a) No person operating, managing or conducting any hotel or any other public sleeping or eating place, or any place or vehicle where food or drink or container thereof of any kind is manufactured, transferred, prepared, stored, packed, served, sold or otherwise handled in the city, or any manufacturer of or vendor of candies or manufactured sweets, shall:

(1) Work, employ or keep in his employ, in, on or about any such place or vehicle, or have delivered any article therefrom, any person who:

a. Is infected with a disease that is transmissible through the handling of food;

b. Resides in a household in which there is a transmissible case of a communicable disease that may be food-borne;

c. Is known to be a carrier of the organisms causing a communicable disease that may be food-borne; or

d. Has a local infection that is commonly transmitted through the handling of food.

(2) Work or employ any person to work in, on, or about such place or to deliver any article therefrom who, at the time of his employment, failed to deliver to the employer or his agent a certificate signed by a licensed physician, residing in the county where such person is employed, attesting to the fact that the bearer had been actually and thoroughly examined by a physician within a week prior to the time of such employment and that such examination disclosed the fact that such person to be employed was free from any transmissible condition of any infectious or contagious disease; or fail to institute and have made, at intervals of time not exceeding 12 months, actual and thorough examinations, essential to the findings of freedom from communicable and infectious diseases, of all such employees, by a licensed physician residing in the county where such person is employed, and secure in evidence thereof a certificate signed by

such physician stating that such examination had been made of such person, disclosing the fact that he was free from any transmissible condition of any communicable and infectious disease.

(b) A careful history of typhoid fever and dysentery shall be taken by the physician performing the examination under this section, and if such history reveals that the person being examined has at any time in the past had typhoid fever or dysentery, the physician shall perform such tests as he deems necessary to determine that the person being examined is not a carrier of typhoid fever or dysentery.

(c) In addition to the examinations required by subsections (a) and (b) of this section, such other examinations and tests as the health officer or the examining physician deems necessary to determine freedom from any communicable disease shall be performed.

(d) No person shall be eligible for a health certificate under the terms of this section who has not had an X-ray of his chest taken by a licensed physician or qualified X-ray technician, approved by the health officer, for determination of the presence or absence of tuberculosis and unless such X-ray shall have been determined to be negative. Such person shall furnish to the health officer a certificate evidencing the fact that such X-ray has been taken and the results of such X-ray examination.

(Code 1974, § 9-4; Code 1994, § 38-36; Code 2005, § 38-40)

State law reference—Food handling prohibited by infected person, V.T.C.A., Health and Safety Code § 438.032.

Sec. 38-41. Enforcing officer; display of certificate.

It shall be the duty of the director of the county health unit to enforce section 38-40. The director of the county health unit shall have the authority to establish rules for the registration of physicians' certificates and to accept the results of other examinations and tests in lieu thereof, and to issue a registration card to show that the person named thereon has complied with all of the provisions of this division, provided that such registration card must bear the signature of the person named thereon and shall be displayed for public inspection at the place where such person is employed.

(Code 1974, § 9-5; Code 1994, § 38-37; Code 2005, § 38-41)

Sec. 38-42. Failure to display employees' health certificates.

(a) The failure of any person engaged in the businesses described in section 38-40 to display for public inspection at the place where any of the operations of such businesses are being conducted, a valid health or registration certificate, as required, for each person working and employed in, on or about such place, shall be prima facie evidence that the person so engaged in business failed to exhibit or require the exhibition of the preemployment health certificate of such employed person and failed to institute and have made of such person an actual and thorough examination necessary to determine his freedom from communicable diseases at intervals not to exceed 12 months.

(b) The responsibility for compliance with the provisions of section 38-40 shall rest equally upon the employer and employee, and either or both employer and employee shall be liable to the penalties for failure to comply with all such provisions.

(Code 1974, § 9-6; Code 1994, § 38-38; Code 2005, § 38-42)

Secs. 38-43--38-72. Reserved.

DIVISION 3. FOOD SERVICE ESTABLISHMENTS*

***State law reference—**Food service establishments, V.T.C.A., Health and Safety Code §§ 437.001 et seq., 438.001 et seq.

Sec. 38-73. State regulations adopted.

(a) There is hereby adopted by reference the Texas Department of Health Texas Food Establishment Rules, 25 Tex. Admin. Code, ch. 229, §§ 161-171, and 173-175); the Harris County Rules Regulating Food Establishments in Harris County, Texas; the Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors (V.T.C.A., Health and Safety Code ch. 437); the Texas Food, Drug, and Cosmetic Act (V.T.C.A., Health and Safety Code ch. 431); and the Minimum Standards of Sanitation and Health Protection Measures (V.T.C.A., Health and Safety Code ch. 341).

(b) A certified copy of each rule manual, as set forth in subsection (a) of this section, shall be kept on file in the office of the city secretary.

~~**Rules on food service sanitation adopted.**~~

~~The definitions; the inspection of food service establishments; the issuance, suspension and revocation of permits to operate food service establishments; the prohibiting of the sale of unsound or mislabeled food or drink; and the enforcement of this article shall be regulated in accordance with the Texas Department of Health, Division of Food and Drugs' Rules on Food Service Sanitation, sections 301.73.11.001 through 301.73.11.011, a copy of which shall be on file in the office of the city secretary; provided, that the word "municipality" in such rules shall be understood to refer to the City of Friendswood; the words "regulatory authority" shall be understood to refer to the director of the Galveston County health district or his authorized representative; the word "establishment" shall mean food service establishment; and the words "food service establishment" shall include "food service establishment," "commissary," "food processing establishment," "mobile food unit" and "temporary food service establishment" as defined in the Texas Department of Health, Division of Food and Drugs' Rules on Food Service Sanitation, section 301.73.11.022.~~

(Code 1974, § 9-21; Code 1994, § 38-51; Code 2005, § 38-73)

Sec. 38-74. Penalties and remedies.

Violations of the rules on food service sanitation adopted in section 38-73 are subject to the penalties and remedies listed in such rules.

(Code 1974, § 9-22; Code 1994, § 38-52; Code 2005, § 38-74)

Sec. 38-75. Permit required.

No person shall operate a food service establishment who does not have a valid permit issued to him by the municipality. Only a person who complies with the requirements of this division shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every establishment.

(Code 1974, § 9-23(A)(1); Code 1994, § 38-53; Code 2005, § 38-75)

Sec. 38-76. Issuance of permit.

(a) Any person desiring to operate a food service establishment shall make written application for a permit on forms provided by the regulatory authority. Such application shall include the name, ~~and~~ address and primary e-mail address of each applicant, the location and type of the proposed establishment, and the signature of each applicant.

(b) Prior to approval of an application for a permit under this division, the regulatory authority shall inspect the proposed establishment to determine compliance with the requirements of this article.

(c) The city shall issue a permit to the applicant if the regulatory authority's inspection reveals that the proposed establishment complies with the requirements of this division. Each permit issued under the provisions of this division shall be valid for a period of 12 months after the date of issuance thereof.

(Code 1974, § 9-23(A)(2); Code 1994, § 38-54; Code 2005, § 38-76)

Sec. 38-77. Suspension.

(a) The regulatory authority may, without warning, notice or hearing, suspend any permit to operate a food service establishment if the operation of the establishment constitutes a substantial hazard to the public health. Suspension is effective upon service of the notice in accordance with subsection (b) of this section. Whenever a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within five calendar days of receipt of a request for a hearing.

(b) Whenever a permit to operate a food service establishment is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten days. If no written request for a hearing is filed within ten days, the suspension is sustained. The regulatory authority shall end the suspension at any time if reasons for suspension no longer exists.

(Code 1974, § 9-23(A)(3); Code 1994, § 38-55; Code 2005, § 38-77)

Sec. 38-78. Revocation of permit.

The regulatory authority may, after providing opportunity for a hearing, revoke a food service establishment's permit for serious or repeated violations of any of the requirements of this division or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

(Code 1974, § 9-23(A)(4); Code 1994, § 38-56; Code 2005, § 38-78)

Sec. 38-79. Service of notices.

A notice provided for in this division is properly served when it is delivered to the holder of the permit 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. A copy of the notice shall be filed in the records of the regulatory authority.

(Code 1974, § 9-23(A)(5); Code 1994, § 38-57; Code 2005, § 38-79)

Sec. 38-80. Hearings.

The hearings provided for in this division shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make a final finding, 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 by the regulatory authority.

(Code 1974, § 9-23(A)(6); Code 1994, § 38-58; Code 2005, § 38-80)

Sec. 38-81. Application after revocation.

Whenever a revocation of a permit under this division has become final, the holder of the revoked permit may make written application for a new permit. The holder of the revoked permit must meet all the rules and requirements as stated in section 38-76 before a new permit will be issued.

(Code 1974, § 9-23(A)(7); Code 1994, § 38-59; Code 2005, § 38-81)

Sec. 38-82. Inspections.

(a) *Inspection frequency*. An inspection of a food service establishment shall be performed at least once every six months. Additional inspections of the food service establishment shall be performed as often as are necessary for the enforcement of this division.

(b) *Correction of violations*. The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified in the state department of health, division of food and drugs' rules on food service sanitation, 25 Tex. Admin. Code § 229.171 ~~section 301.73.11.011~~.

(c) *Inspection report form*. An inspection report form based on the requirements of this division is on file in the office of the city secretary.

(Code 1974, § 9-23(B); Code 1994, § 38-60; Code 2005, § 38-82)

Sec. 38-83. Examination and condemnation of food.

Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of this division. The regulatory authority 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 subsection (a) of rule .003~~ of the Rules on Food Service Sanitation, or any other provision of this division. The regulatory authority 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 regulatory authority shall permit storage of the 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. The hold order shall state that a request for hearing may be filed with the regulatory authority within ten days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and 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 division.

(Code 1974, § 9-23(C); Code 1994, § 38-61; Code 2005, § 38-83)

Sec. 38-84. Review of plans.

(a) *Submission of plans*. Whenever a food service establishment is constructed or extensively remodeled and whenever 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 regulatory authority 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 regulatory authority shall approve the plans and specifications if they meet the requirements of this division. No food service establishment shall be constructed,

extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority.

(b) *Preoperational inspection*. Whenever plans and specifications are required by subsection (a) of this section to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this division.

(Code 1974, § 9-23(D); Code 1994, § 38-62; Code 2005, § 38-84)

Sec. 38-85. Fees.

Before any permit shall be issued under the provisions of this division, the applicant shall pay to the municipality a fee to be set by resolution and printed in Appendix D to this Code ~~council~~ to help defray the cost of the enforcement of this division.

(Code 1974, § 9-23(E); Code 1994, § 38-63; Code 2005, § 38-85)

Sec. 38-86. Procedure when infection is suspected.

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employees or make any other investigations as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the measures as specified in the state department of health, division of food and drugs' rules on food service sanitation, 25 Tex. Admin. Code § 229.171(o) ~~section 301.73.11.011(c)~~.

(Code 1974, § 9-23(F); Code 1994, § 38-64; Code 2005, § 38-86)

Sec. 38-87. Remedies.

(a) *Penalties*. Any person who violates a provision of this division and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of this division and any responsible officer of that permit holder or those persons shall be punished for violation of a misdemeanor ~~pursuant to section 1-14~~.

(b) *Injunctions*. The regulatory authority may seek to enjoin violations of this division.

(Code 1974, § 9-23(G); Code 1994, § 38-65; Code 2005, § 38-87)

Chapters 39--41

RESERVED

Chapter 42

LAW ENFORCEMENT*

***State constitution references**--Survivor's assistance, death in the line of duty, Tex. Const. art. 3, § 51-d.

State law reference—Law enforcement officers, V.T.C.A., Occupations Code ch. 1701; municipal law enforcement, V.T.C.A., Local Government Code ch. 341; law enforcement services provided through cooperation of local governments, V.T.C.A., Local Government Code ch. 362; penal provisions, V.T.C.A., Penal Code ch. 1 et seq.; V.T.C.A., Transportation Code ch. 1 et seq.; ~~qualifications and training, V.T.C.A., Government Code § 415.051 et seq.;~~ authority of peace officers to arrest without warrant, ~~Vernon's Ann. C.C.P.~~ V.T.C.A., Code of Criminal Procedure art. 14.03.

ARTICLE I. IN GENERAL

Sec. 42-1. Municipal court building security fund.

(a) There is hereby created and established a municipal court building security fund (the "fund"), pursuant to V.T.C.A., Code of Criminal Procedure art. 102.017.

(b) The municipal court of the city (the "municipal court") is hereby authorized and required to assess a municipal court building security fee (the "fee") in the amount set by resolution and printed in Appendix D to this Code against all defendants convicted of a misdemeanor offense by the municipal court. Each misdemeanor conviction shall be subject to a separate assessment of the fee.

(c) The municipal court clerk is hereby authorized and required to collect the fee and to pay same to the treasury of the city. All fees so collected and paid over to the treasury of the city shall be segregated in the fund.

(d) The fund shall be used only for the purposes of financing the purchase of security devices and/or services for the building or buildings housing the municipal court of the city. "Security devices and/or services" shall include any and all items described in V.T.C.A., Code of Criminal Procedure art. 102.017(d).

(e) The fund shall be administered by or under the direction of the city council.

(Code 1994, § 42-1; Code 2005, § 42-1; Ord. No. 97-20, §§ 1--5, 11-17-1997)

State law reference—Municipal court building security fund, V.T.C.A., Code of Criminal Procedure art. 102.017.

Sec. 42-2. Municipal court technology fund.

(a) *Establishment.*

(1) Pursuant to and in accordance with V.T.C.A., Code of Criminal Procedure art. 102.0172, there is hereby created and established a municipal court technology fund (the "fund").

(2) The fund shall be maintained in an interest bearing account. The fund may be combined with the city's general revenue account if its contents, including all interest earned thereon, are identified and accounted for.

(b) *Assessment and collection of fee; establishment of amount.*

(1) There is hereby established a municipal court technology fund fee (the "fee"), which shall be in the amount set by resolution and printed in Appendix D to this Code.

(2) The fee shall be assessed and collected from each defendant for each conviction of a misdemeanor offense in the city's municipal court as a cost of court. A defendant is considered convicted if:

a. A sentence is imposed on the defendant;

b. The defendant is placed on community supervision, including deferred adjudication community supervision; or

c. The court defers final disposition of the defendant's case.

(3) The fee shall be collected for each conviction for an offense committed on or after September 1, 1999.

(4) The clerk of the municipal court shall collect the fee and render the same to the city treasurer, who shall deposit all fees collected into the fund.

(c) *Designation of fund; administration.*

(1) The fund shall be used only for financing the acquisition or maintenance of technological enhancements for the municipal court of the city, including computer systems, computer networks, computer hardware, computer software, imaging systems, electronic kiosks, electronic ticket writers and dock management systems.

(2) The fund shall be administered by, and shall be under the direction and supervision of, the city council.

(Code 1994, § 42-2; Code 2005, § 42-2; Ord. No. 2000-06, §§ 1--3, 3-20-2000; Ord. No. 2003-17, § 1, 10-6-2003)

State law reference—Municipal court technology fund, V.T.C.A., Code of Criminal Procedure art. 102.0172.

Secs. 42-3--42-22. Reserved.

ARTICLE II. POLICE RESERVE FORCE*

***State law reference—**Compensation for police reserve force members, V.T.C.A., Local Government Code § 141.007; police reserve force authorized, V.T.C.A., Local Government Code § 341.012(a); qualifications for basic peace officer proficiency certificate, 37 Tex. Admin. Code § 221.3.

Sec. 42-23. Establishment authorized.

There is hereby authorized the establishment of a police reserve force for the city.

(Code 1974, § 14-5(a); Code 1994, § 42-26; Code 2005, § 42-23)

Sec. 42-24. Membership.

Members of the police reserve force shall be appointed by the chief of police and approved by the city council. The number of reserve police officers shall not exceed twice the number of regular police officers authorized for the regular police force of the city.

(Code 1974, § 14-5(b); Code 1994, § 42-27; Code 2005, § 42-24)

Sec. 42-25. Service.

Reserve police officers shall act only in a supplementary capacity to the regular police force. Reserve police officers may be called into service by the chief of police when he, in his discretion, considers it necessary to have additional officers to preserve the peace and enforce the law. When called into service, a reserve police officer shall serve as a peace officer during the actual discharge of official duties.

(Code 1974, § 14-5(c); Code 1994, § 42-28; Code 2005, § 42-25)

Sec. 42-26. Approval; training.

No person appointed to the police reserve force may carry a weapon or otherwise act as a peace officer unless he has been approved by the city council and has fulfilled the minimum training standards described in section 42-27. After approval and fulfillment of the minimum training standards, he may carry a weapon only when authorized by the chief of police, and when discharging official duties as a duly constituted peace officer.

(Code 1974, § 14-5(d); Code 1994, § 42-29; Code 2005, § 42-26)

Sec. 42-27. Training standards.

A reserve police officer must fulfill the minimum training standards established for all reserve law enforcement officers by the commission of law enforcement standards and education. Reserve police officers shall further possess and maintain the minimum physical, mental, educational and moral standards established for all reserve law enforcement officers by the commission of law enforcement officers standards and education.

(Code 1974, § 14-5(e); Code 1994, § 42-30; Code 2005, § 42-27)

Sec. 42-28. Compensation.

Reserve police officers shall serve without compensation. However, the city shall provide a uniform allowance for members of the police reserve force.

(Code 1974, § 14-5(f); Code 1994, § 42-; Code 2005, § 42-2831)

Chapters 43--45

RESERVED

Chapter 46

LIBRARY*

*State law reference—Libraries and archives, V.T.C.A., Government Code ch. 441.

ARTICLE I. IN GENERAL

Secs. 46-1--46-18. Reserved.

ARTICLE II. FRIENDSWOOD PUBLIC LIBRARY

Sec. 46-19. Board of trustees.

(a) There is hereby created the board of trustees of the city public library. Such board shall administer and supervise the operation of the public library and any branches thereof as may be established by the city council, under the supervision and control of the city manager. Such board may formulate such rules and regulations as it shall deem necessary for the orderly use of the library facilities and in governing the performance of duties of the library employees and personnel.

(b) The board of trustees of the city public library shall consist of five members, to be appointed by the city council for the term of three years, with appointments to be staggered throughout the three-year period.

(c) The board of trustees of the city public library shall have no power to obligate the city in any manner whatsoever; its finances shall be handled in the same manner as any division of the city government.

(Code 1974, § 13-23; Code 1994, § 46-26; Code 2005, § 46-19)

Sec. 46-20. Books and equipment.

The city hereby accepts all gifts and donations of books and equipment heretofore made for the city public library, with grateful thanks to the donors both of books and time. Such books and equipment, together with such additions as may be made from time to time, shall constitute and form the books and equipment of the city public library.

(Code 1974, § 13-22; Code 1994, § 46-27; Code 2005, § 46-20)

Chapters 47--49

RESERVED

Chapter 50

MANUFACTURED HOMES AND TRAILERS*

*State law reference—Texas Manufactured Housing Standards Act, V.T.C.A., Occupations Code ch. 1201.

ARTICLE I. IN GENERAL

Secs. 50-1--50-18. Reserved.

ARTICLE II. MOBILE HOMES AND MOBILE HOME PARKS*

***Federal law reference**--No state or local government may establish construction and safety standards for manufactured housing which are not identical to Federal construction and safety standards, 42 USC 5403; National Manufactured Home Construction and Safety Standards ("HUD Code"), 24 CFR 3280 et seq.

State law reference—Texas Manufactured Housing Standards Act, V.T.C.A., Occupations Code § 1201.001 et seq.; regulation of certain types of housing and buildings, reservation of municipal authority, V.T.C.A., Occupations Code § 1202.252; regulation by municipality of mobile and manufactured housing, V.T.C.A., Occupations Code § 1201.008.

DIVISION 1. GENERALLY

Sec. 50-19. 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:

Annual parking permit means a permit required for any mobile home or travel trailer which is occupying a stand in a mobile home park and which permit is valid for the period from January 1 through December 31 of the year of issuance.

Building official means the city building inspector or his duly authorized representative.

Cash means United States currency or coin or a cashier's certified check or a postal money order.

Construction permit means the permit required for the construction, alteration or extension of any mobile home park in the city.

Construction permittee means the person to whom a construction permit has been issued.

Current parking permit means a valid, unexpired, annual, semiannual or temporary parking permit.

Expandable room means an enclosed or a semienclosed room or roofed portion which expands outward from the basic mobile home by means of rollers, hinges or other devices or arrangements but which is designed as a structural portion of the mobile home and which is carried on, or within, the mobile home while traveling; including also permanent additions to mobile homes.

Health officer means the county director of health.

Label means a metal inspection label or plate which has been permanently affixed by the manufacturer or by an approved testing agency to a mobile home or travel trailer or to equipment used in connection therewith and which contains a serial number, if required, and the specifications of the vehicle or the equipment to which it is attached, and which refers to any standards that have been met in the construction of such vehicle or equipment.

License means a mobile home park operator's license.

Licensee means the person to whom a mobile home park operator's license has been issued.

HUD-code manufactured home.

(1) The term "HUD-code manufactured home":

a. Means a structure:

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

2. Built on a permanent chassis;

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

4. Transportable in one or more sections; and

5. Which is in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;

b. Includes the plumbing, heating, air conditioning, and electrical systems of the home; and

c. Does not include a recreational vehicle as defined by 24 CFR 3282.8(g).

(2) ~~*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 feet or more in width or 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.~~ A structure described by this definition shall be allowed for placement only in a mobile home park or a mobile home subdivision, zoned MHR in accordance with the city's zoning ordinances. Any structure not described by this definition shall not be allowed for placement in a mobile home park, nor anywhere else in the city.

Manufactured home or *manufactured housing* means a HUD-code manufactured home or a mobile home.

Manufacturer means the manufacturer of a mobile home or a travel trailer.

Mobile home. The term "mobile home":

(1) Means a structure:

a. Constructed before June 15, 1976;

b. Built on a permanent chassis;

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

d. Transportable in one or more sections; and

e. Which is in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

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

Mobile home lot means a parcel or tract of land for the placement of a single mobile home and the exclusive use of its occupants and which is located in a mobile home subdivision approved by the planning commission of the city. This is to be distinguished from a mobile home stand and site located within a mobile home park.

Mobile home park means a tract or parcel of land used for lease or rental occupancy by two or more mobile or manufactured homes.

Mobile home sales lot means a parcel or tract of land which is used by a mobile home dealer or agent for the sale, or for the leasing or renting for use off such lot, of mobile homes or travel trailers.

Mobile home stand means that part of a mobile home park which has been improved for the placement of mobile homes, including all required appurtenant structures, and having provision for available utility connections.

Mobile home subdivision means a parcel or tract of land in which the occupant of the mobile home owns the mobile home lot on which the mobile home is located.

Occupant means the person who occupies a mobile home or travel trailer in a mobile home park.

Overnight parking means the use of a mobile home park for a period not to exceed seven days by a travel trailer or mobile home, provided that if such use exceeds seven days, a valid annual, semiannual or temporary parking permit is required and the beginning date shall be the initial date of occupancy of the mobile home park. No permit or fee shall be required by the city for the temporary use of a mobile home park for a period of seven days or less.

Owner means the owner or lessee, whether one or more, of the premises on which a mobile home park is operated when such person is not a licensee.

Parking permit means an annual, semiannual or temporary parking permit.

Semiannual parking permit means a permit required for any mobile home or travel trailer which has been placed upon a stand in a mobile home park and which is valid for the period from January 1 through June 30 or for the period from July 1 through December 31 of the year of issuance.

Service building means a structure housing toilet facilities, lavatories, bathing facilities and such other facilities as may be required or permitted under the provisions of this article and which is used in connection with the operation of a mobile home park.

Sewer connection means the connection consisting of the pipes, fittings and appurtenances from the drain outlet of the mobile home or travel trailer to the inlet of the corresponding sewer riser pipe or the sewerage system serving the mobile home park.

Sewer riser means that portion of the pipe of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home stand.

Temporary parking permit means a permit which may be used in lieu of an annual or semiannual parking permit and which is valid for 30 days from the date of issuance.

Travel trailer 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 by the manufacturer. When such a vehicle has been equipped by the manufacturer for use on public streets and highways, the body of such vehicle shall not exceed eight feet in width but may be of any length, provided its gross weight does not exceed 4,500 pounds, or a travel trailer may be of any height, provided its length does not exceed 29 feet, exclusive of the tongue. The term "travel trailer" shall also be deemed to include all other portable contrivances other than mobile homes used or intended to be used generally for living and sleeping quarters and which may be moved under their own power or towed or transported by another vehicle.

Utilities means the telephone, water, sewerage, gas and electrical distribution systems, which are available for connection to mobile homes or travel trailers in mobile home parks.

Utility connection means the connection of available utilities in a mobile home park to a mobile home or travel trailer placed on a mobile home stand in a mobile home park.

Vehicle means a mobile home or a travel trailer, unless the context in which the word is used indicates that another meaning is intended.

Water connection means the connection of the pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe for the water distribution system of a mobile home or travel trailer.

(Code 1974, § 10-1; Code 1994, § 50-26; Code 2005, § 50-19; Ord. No. 98-11, § 1, 4-20-1998)

Sec. 50-20. Travel trailers.

No travel trailer shall be used as or occupied as a permanent type residence except in a mobile home park. Travel trailers so occupied shall comply with American Standard Association pamphlet "A 119.2-1963 Plumbing, Heating and Electrical Systems in Travel Trailers."

(Code 1974, § 10-77; Code 1994, § 50-27; Code 2005, § 50-20)

Secs. 50-21--50-43. Reserved.

DIVISION 2. MOBILE HOMES

Sec. 50-44. Standards applicable.

The standards for mobile homes in CABO Manufactured Homes Construction and Safety Standards are hereby adopted and shall be applicable to mobile homes in the city.

(Code 1994, § 50-40; Code 1994, § 50-41; Code 2005, § 50-44)

Sec. 50-45. Parking in violation of deed restrictions.

No mobile home shall be parked in violation of any enforceable deed restriction or covenant.

(Code 1974, § 10-68; Code 1994, § 50-42; Code 2005, § 50-45)

Sec. 50-46. Occupancy restricted.

It shall be unlawful to occupy a mobile home as any type occupancy other than as a private dwelling; provided, however, a mobile home may be parked at a construction site for use as a field office for a period not exceeding the period of construction and not more than one mobile home may be used for demonstration purposes and office at a mobile home sales park.

(Code 1974, § 10-73; Code 1994, § 50-43; Code 2005, § 50-46)

Sec. 50-47. Maintenance.

All mobile homes and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this article and other regulations, pamphlets or data made a part of this article, when installed, repaired or altered, shall be maintained in good working order. The owner or occupant shall be responsible for the maintenance of the mobile home.

(Code 1974, § 10-74; Code 1994, § 50-44; Code 2005, § 50-47)

Sec. 50-48. Minimum floor space, etc.

Each mobile home must have a minimum space of 200 square feet of floor area, and qualify under the definition of "mobile home" in section 50-19.

(Code 1974, § 10-76; Code 1994, § 50-45; Code 2005, § 50-48)

Secs. 50-49--50-69. Reserved.

DIVISION 3. MOBILE HOME PARKS*

***State law reference**—Minimum sanitation standards for mobile home developments, 25 Tex. Admin. Code § 265.82 et seq.; streets and parking facilities in mobile home developments, 25 Tex. Admin. Code § 265.82(i); water supply in mobile home development, 25 Tex. Admin. Code § 265.82(a); mobile home development standards, sewage disposal, 25 Tex. Admin. Code § 265.82(c); electrical distribution systems in mobile home developments, 25 Tex. Admin. Code § 285.82(d); solid waste disposal in mobile home developments, 25 Tex. Admin. Code § 285.82(e); insect and rodent control in mobile home developments, 25 Tex. Admin. Code § 285.82(f).

Subdivision I. In General

Sec. 50-70. Operation and occupancy responsibilities.

(a) *Responsibilities of mobile home park licensee.*

(1) The person to whom a license for a mobile home park has been issued shall be responsible for operation of such park in compliance with the provisions of this division and he shall provide adequate supervision to maintain such park, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The licensee shall be responsible for notifying park occupants of the applicable provisions of this division.

(3) The licensee shall be responsible for supervising the placement of mobile homes on mobile home stands within the mobile home park. The licensee shall be responsible for maintaining a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park for the enforcement of this division, or any other ordinances of the city.

(b) *Responsibilities of park occupants.*

(1) Mobile home park occupants shall comply with all applicable provisions of this division, and each occupant shall maintain his mobile home, mobile home stand, mobile home site and appurtenances and equipment in good repair and in a clean and sanitary condition.

(2) The mobile home park occupant shall be responsible for the proper placement of his mobile home on the mobile home stand and for proper installation of all utility connections.

(Code 1974, § 10-25; Code 1994, § 50-56; Code 2005, § 50-70)

Sec. 50-71. Conditions to occupancy of mobile home.

A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to water, sewerage, electrical utilities and other services where required for health and safety of the occupant.

(Code 1974, § 10-26; Code 1994, § 50-57; Code 2005, § 50-71)

Sec. 50-72. Utilities connection requirement.

(a) It shall be unlawful for any person to occupy a mobile home or travel trailer in a mobile home park unless such vehicle has first been connected to the approved utilities, exclusive of telephone, available in such park.

(b) It shall be unlawful for the occupant of a mobile home or travel trailer to connect or permit such vehicle to be connected to the available utilities in a mobile home park or for such vehicle to remain so connected, without first securing a parking permit, except that no permit will be required for the use of a mobile home park for a period of seven days or less.

(c) It shall be the responsibility of a mobile home park licensee, his agents or employees, to notify the city in writing when any mobile home or travel trailer is to be connected to the available utilities in the mobile home park operated by the licensee. Failure to perform such notification shall constitute a misdemeanor under the terms of this division.

(Code 1974, § 10-11; Code 1994, § 50-58; Code 2005, § 50-72)

Secs. 50-73--50-102. Reserved.

Subdivision II. Construction Permit

Sec. 50-103. Required.

It shall be unlawful for any person to construct, alter or extend any mobile home park within the city unless he shall first have obtained a mobile home park construction permit therefor from the city.

(Code 1974, § 10-2; Code 1994, § 50-71; Code 2005, § 50-103)

Sec. 50-104. Application.

Application for a construction permit shall be made to the planning commission in triplicate and the following information and items shall be furnished:

(1) Name, ~~and~~ address and primary e-mail address of the applicant.

(2) An application fee as set by resolution and printed in Appendix D to this Code.

(3) Interest of the applicant in the mobile home park.

(4) Location and legal description of the mobile home park.

(5) Complete engineering plans and specifications in triplicate for the proposed park showing:

a. The area and dimensions of the tract of land.

b. A plat or map of the proposed mobile home park showing the number, location and size of all mobile home sites, stands, locations and widths of roadways and walkways, service buildings and other proposed structures.

c. The location of water and sewer lines and riser pipes.

d. Plans and specifications for the water supply, including fireplugs and refuse and sewage disposal facilities.

e. Plans and specifications for all buildings to be constructed within the mobile home park.

f. The location and details of lighting and electrical systems.

g. Surface drainage plan.

(Code 1974, § 10-4; Code 1994, § 50-72; Code 2005, § 50-104)

Sec. 50-105. Appeals from denial of construction permit.

Any person who has been denied a mobile home park construction permit may appeal such denial by following the same procedure provided for an appeal from a license denial, revocation or suspension by the building official.

(Code 1974, § 10-21; Code 1994, § 50-73; Code 2005, § 50-105)

Sec. 50-106. Other permits required.

In addition to the construction permit, a separate permit for mobile home parks shall be required for the building, electrical, plumbing and driveway-sidewalk and other permits when required.

(Code 1974, § 10-3; Code 1994, § 50-74; Code 2005, § 50-106)

Secs. 50-107--50-125. Reserved.

Subdivision III. Parking Permit

Sec. 50-126. Required, exception; form; display.

(a) It shall be unlawful for any person to occupy a mobile home or travel trailer in a mobile home park without first securing a parking permit therefor, except that no permit will be required for the use of a mobile home park for a period of seven days or less.

(b) The building official is authorized to prescribe the form of parking permits and to require that additional relevant information is furnished, either in the application for parking permits, upon the face or back of the parking permit or upon the receipt thereof. The building official is further authorized to designate the place on or within a mobile home or travel trailer that a parking permit shall be affixed or displayed, and the failure, refusal or neglect of a parking permit holder to comply with this requirement shall constitute an offense and the building official is authorized to disconnect or cause to be disconnected the available utilities in a mobile home park from such vehicle.

(Code 1974, § 10-8; Code 1994, § 50-86; Code 2005, § 50-126)

Sec. 50-127. Annual and semiannual periods; application; fees; assignment; replacement.

(a) An annual parking permit shall be valid for the period from January 1 through December 31 of the year of issuance. A semiannual parking permit shall be valid for the period from January 1 through June 30, or July 1 through December 31 of the year of issuance.

(b) An annual or a semiannual parking permit may be issued only by the city; such permits may not be issued by licensees or mobile home dealers.

(c) Application for an annual parking permit or a semiannual parking permit shall be made to the building official.

(d) A cash fee set by resolution and printed in Appendix D to this Code shall be paid for an annual parking permit and no proration shall be allowed for an elapsed period of time in the year of issuance. A cash fee set by resolution and printed in Appendix D to this Code shall be paid for a semiannual parking permit.

(e) Applications for parking permits may be made by mail to the building official.

(f) If the mobile home stays within the city less than one month, a refund of the parking permit may be made for all but an amount to be set by resolution and printed in Appendix D to this Code of the semiannual or annual fees paid. If the period of time is more than one month but less than six months, the city shall, upon request, refund an amount to be set by resolution and printed in Appendix D to this Code of any annual fee paid.

(g) A parking permit may be assigned in connection with the sale, lease or renting of a mobile home or travel trailer or a permit holder may transfer a parking permit from one vehicle to another. Application for such assignment or transfer shall be made to the building official who shall furnish the necessary forms. A service charge set by resolution and printed in Appendix D to this Code will be made for each transfer or assignment. This provision is not to be construed as requiring an assignment of a parking permit from the seller in whose name the parking permit has

been issued to the purchaser, provided the seller has delivered to the purchaser his receipt for such parking permit.

(h) If the building official is furnished satisfactory proof that a parking permit which has been issued has been lost, destroyed or defaced, he may issue a replacement permit for the unexpired term of such permit upon payment of a service charge set by resolution and printed in Appendix D to this Code. The building official may prescribe such forms and requirements as he may from time to time find necessary to ensure that no replacement parking permit is improperly issued.

(Code 1974, § 10-9; Code 1994, § 50-87; Code 2005, § 50-127)

Sec. 50-128. Temporary permits.

A temporary parking permit may be used in lieu of an annual or a semiannual parking permit and it shall be valid for a period of 30 days from the date of issuance. A temporary parking permit may be obtained from the building official in the same manner as an annual or semiannual parking permit upon payment of a cash fee set by resolution and printed in Appendix D to this Code.

(Code 1974, § 10-10; Code 1994, § 50-88; Code 2005, § 50-128)

Secs. 50-129--50-154. Reserved.

Subdivision IV. License

Sec. 50-155. Required.

It shall be unlawful to establish, maintain or operate a mobile home park, whether presently existing or new, without first securing a mobile home park license therefor.

(Code 1974, § 10-5; Code 1994, § 50-101; Code 2005, § 50-155)

Sec. 50-156. Period; fees.

Licenses shall be valid for a period of one year beginning on July 1 of each year and shall be renewable annually during the month of June. A nonrefundable license application investigation fee set by resolution and printed in Appendix D to this Code shall accompany each application for a license, provided that such investigation fee will be allowed as a credit upon the license if it is granted. The license fee and annual license renewal fee shall be ~~determined by the fee schedule established~~ set by resolution and printed in Appendix D to this Code.

(Code 1974, § 10-6; Code 1994, § 50-102; Code 2005, § 50-156)

Sec. 50-157. Revocations and suspensions of licenses and utility connection authority; grounds.

The building official shall have authority to suspend or revoke licenses or to order utility disconnections for the following violations of the provisions of this subdivision:

(1) A license may be suspended for any period of time up to six months for a violation affecting the health, safety or welfare of occupants of a mobile home or of other persons or property.

(2) A license may be revoked for a violation which is dangerous to life.

(3) For a violation not deemed to require a license suspension or revocation, the utility connection servicing any stand or any structure in a mobile home park may be disconnected or caused to be disconnected, provided that a utility disconnection may be ordered in connection with a license suspension or revocation as to all or any part of a mobile home park if necessary to protect life or property.

(Code 1974, § 10-12; Code 1994, § 50-103; Code 2005, § 50-157)

Sec. 50-158. Reinstatement of suspended license.

After the period of suspension, a suspended license will be reinstated by the building official upon a showing of ability and willingness by the licensee to comply with the provisions of this subdivision.

(Code 1974, § 10-13; Code 1994, § 50-104; Code 2005, § 50-158)

Sec. 50-159. New license after revocation.

A person whose license has been revoked may apply for a new license six months after such revocation by making a new application and paying the required fee therefor. Before granting such new license, the building official shall require the applicant to show ability and willingness to comply with the provisions of this subdivision.

(Code 1974, § 10-14; Code 1994, § 50-105; Code 2005, § 50-159)

Sec. 50-160. Transfer or assignment of license during period.

No sale, transfer or assignment of a revoked license or of a license during the period of suspension will be recognized by the city, provided a person whose license has been suspended or revoked may sell, transfer or assign his interest in the premises, if any, to another person who may then make application for a license to operate the mobile home park. If it is shown by the applicant that he has had no responsible connection with the mobile home park, he will be eligible for the granting of a new license, and, if a new license is granted, the new licensee may commence to operate the mobile home park upon issuance of the license.

(Code 1974, § 10-15; Code 1994, § 50-106; Code 2005, § 50-160)

Sec. 50-161. New license to owner.

Where a person whose license under this subdivision has been suspended or revoked has no interest in the premises other than by agreement with the owner of the premises, such person may advise the city in writing of his withdrawal from any further connection with the mobile home park. In this event, and if it is shown that the owners had no responsible connection with the actual operation and maintenance of the mobile home park, a new application may be made by any person other than the person whose license was suspended or revoked, and, if the new license is granted, the new licensee may commence to operate the mobile home park upon issuance of the license.

(Code 1974, § 10-16; Code 1994, § 50-107; Code 2005, § 50-161)

Sec. 50-162. Appeal from license denial.

Any person whose application for a license has been denied by the building official shall have the right to appeal such decision as provided for appeals from license revocation.

(Code 1974, § 10-22; Code 1994, § 50-108; Code 2005, § 50-162)

Sec. 50-163. Appeal from license revocation, etc.

(a) Any license revocation or suspension, or any order for a utility disconnection, or any decision, order or action taken by the building official may be appealed by any person affected by the decision, order or action to the planning and zoning commission by filing written notice of appeal within ten days from the date of notice of such action by mailing postpaid or delivering such notice to the city secretary at the city hall.

(b) When such a written appeal as described in subsection (a) of this section has been made within ten days, a license suspension or revocation, or any decision or action by the building official, will be held in abeyance and such person will be given a hearing before the planning and

zoning commission, provided any utility disconnection shall not be reconnected unless authorized by the planning and zoning commission after hearing.

(Code 1974, § 10-23; Code 1994, § 50-109; Code 2005, § 50-163)

Sec. 50-164. Occupancy of unlicensed park.

It shall be unlawful for any mobile home park occupant to continue occupying a mobile home or a travel trailer located in a mobile home park which has not been duly licensed by the city. A ten-day written notice of such failure of the owner or operator of an existing mobile home park shall be given to the occupants of such mobile home park and the failure, refusal or neglect of such occupants to remove their mobile homes or travel trailers therefrom, or to cease occupying such mobile homes or travel trailers within such ten-day period, shall constitute an offense.

(Code 1974, § 10-7; Code 1994, § 50-110; Code 2005, § 50-164)

Secs. 50-165--50-181. Reserved.

Subdivision V. Inspection

Sec. 50-182. Authorized.

The inspecting authority shall make such inspection as necessary to ensure compliance with the provisions of this division.

(Code 1974, § 10-17; Code 1994, § 50-121; Code 2005, § 50-182)

Sec. 50-183. License issuance deemed consent; hours.

By the acceptance of the license to operate a mobile home park, the licensee shall be deemed to authorize the inspection of such mobile home park at all reasonable hours. Such hours shall usually be during normal working hours, and failure to permit such inspection shall be grounds for suspension or revocation of the license. Where there is reason to believe a violation may exist before or after the hours of normal inspection, the building official may authorize special inspections at any time; provided, however, that nothing in this section shall prohibit inspection for valid parking permits at any time.

(Code 1974, § 10-18; Code 1994, § 50-122; Code 2005, § 50-183)

Sec. 50-184. Obstruction by occupant.

Failure or refusal of a mobile home park occupant to permit inspection by the inspecting authority, or to permit the licensee to make necessary repairs or alterations in compliance with the requirements of the inspecting authority, shall constitute grounds for disconnection of the utilities serving such mobile home. The mobile home occupant shall have the right to appeal any decision, order or action of the building official or the inspecting authority by following the same procedure provided for appeals from license denials, suspensions or revocations by the building official.

(Code 1974, § 10-19; Code 1994, § 50-123; Code 2005, § 50-184)

Sec. 50-185. Notice of violation.

The inspecting authority may issue written notice of violations to the licensee or his agent, or to any mobile home park occupant, setting out the particular violation and setting out a time for making the necessary correction or repair. The person receiving such a notice shall have the right of appeal as from license denials, suspensions or revocations by the building official. The provision for written notices shall be cumulative of the penal provisions of this Code and the issuance of a written notice shall not prevent the filing of a criminal charge for violation of the provisions of this subdivision.

(Code 1974, § 10-20; Code 1994, § 50-124; Code 2005, § 50-185)

Secs. 50-186--50-208. Reserved.

Subdivision VI. Plans and Specifications

Sec. 50-209. Topography, environmental considerations generally.

Condition of soil, groundwater level, drainage and topography shall not create hazards to the mobile home park property or the health or safety of the occupants thereof. The site shall not be exposed to objectionable adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards. Further, all drainage must be approved by the drainage board.

(Code 1974, § 10-27; Code 1994, § 50-136; Code 2005, § 50-209)

Sec. 50-210. Soil and ground cover requirements.

Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(Code 1974, § 10-28; Code 1994, § 50-137; Code 2005, § 50-210)

Sec. 50-211. Site drainage requirements.

The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner and must meet any requirements established by the drainage board.

(Code 1974, § 10-29; Code 1994, § 50-138; Code 2005, § 50-211)

Sec. 50-212. Park areas for nonresident uses.

No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

(Code 1974, § 10-30; Code 1994, § 50-139; Code 2005, § 50-212)

Sec. 50-213. Separation between mobile homes.

(a) Mobile homes shall be separated from each other and from other buildings and structures by at least ten feet on the sides and provide end-to-end clearance of ten feet.

(b) An accessory structure which has a horizontal area exceeding 25 square feet, which is attached to a mobile home or located within ten feet of its window, and has an opaque top or roof that is higher than the nearest window, shall, for purposes of all separation requirements, be considered to be part of the mobile home.

(Code 1974, § 10-31; Code 1994, § 50-140; Code 2005, § 50-213)

Sec. 50-214. Recreation areas.

(a) In all parks accommodating or designed to accommodate 25 or more mobile homes, there shall be not less than one recreation area which shall be easily accessible to all park residents.

(b) The size of mobile home park recreation areas shall be based upon a minimum of 200 square feet for each mobile home stand. No outdoor recreation area shall contain less than 2,500 square feet.

(c) Recreation areas in mobile home parks shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

(Code 1974, § 10-32; Code 1994, § 50-141; Code 2005, § 50-214)

Sec. 50-215. Lot size; setbacks; buffer strips; screening.

(a) All mobile homes shall be located at least 25 feet from any property boundary line abutting upon a public street or highway and at least five feet from interior property boundary lines.

(b) There shall be a minimum distance of ten feet between individual mobile homes and four feet from adjoining pavement of a park street, or common parking area, or other common areas.

(c) All mobile home parks shall provide screening such as fences or natural growth along the property boundary line separating the park and adjacent land.

(d) The minimum lot size in mobile home parks shall be 40 feet by 75 feet.

(Code 1974, § 10-33; Code 1994, § 50-142; Code 2005, § 50-215)

Sec. 50-216. Street system.

(a) *General requirements*. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to the internal parking area or mobile home stand. Alignment and gradient shall be properly adapted to topography.

(b) *Access*. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with the public street or road shall have a minimum road pavement width of 34 feet where parking is permitted on both sides, or a minimum road pavement width of 27 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be 24 feet, provided parking is prohibited at both sides.

(c) *Internal streets*. Surfaced roadways in mobile home parks shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

(1) All streets, except minor streets, shall be not less than 24 feet in width.

(2) Minor streets, when parking is prohibited, shall not be less than 20 feet in width. Such a street will be acceptable only if it is less than 500 feet long and serves fewer than 25 mobile homes, provided that such street may exceed 500 feet if it is a one-way street and provides access to abutting mobile home sites on one side only.

(3) Dead-end streets shall not exceed 1,000 feet in length. Such streets shall be provided with a turnaround at the closed end and have an outside roadway diameter of at least 75 feet.

(d) *Required illumination of street systems*. All mobile home parks shall be furnished with lighting units so spaced and equipped with luminaires placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(1) All parts of the park street system shall average six-tenths of one footcandle and no park shall have less than one-tenth footcandle.

(2) Potentially hazardous locations, such as major street intersections and steps or stepped ramps, shall be individually illuminated and shall have a minimum of three-tenths of one footcandle.

(e) *Street construction and design standards*. All streets shall comply with length, width, design, and construction standards for subdivisions as set forth in Appendix B to this Code:

(1) *Pavement*. All streets shall be paved and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained free of dust, cracks, holes and other hazards.

(2) *Grades*. Grades of all streets shall be sufficient to ensure adequate surface drainage, but shall be not more than eight percent. Short runs with a maximum grade of 12 percent may be permitted, provided traffic safety is ensured by appropriate paving, adequate leveling areas and avoidance of lateral curves.

(3) *Intersections*. Within 100 feet of an intersection, streets shall be approximately at right angles. A distance of at least 150 feet shall be maintained between centerlines of offset intersecting streets. Intersections of more than two streets at one point shall be avoided.

(4) *Material*. Minimum standards for paving streets are six-inch cement, limestone or stabilized shell sealed and topped with 1 1/2-inch asphalt.

(Code 1974, § 10-34; Code 1994, § 50-143; Code 2005, § 50-216)

Sec. 50-217. Off-street parking areas.

(a) Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of not less than two spaces for each mobile home stand, each space to be accessible without moving another car.

(b) Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 40 feet from the mobile home that it is intended to serve.

(Code 1974, § 10-35; Code 1994, § 50-144; Code 2005, § 50-217)

Sec. 50-218. Access walks.

(a) *General requirements*. All mobile home parks shall be provided with safe, convenient all-season pedestrian access walks of adequate width for the intended use, constructed of durable material (asphalt, concrete or other masonry construction approved by the building official), and convenient to maintain. Such walks shall be placed between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided. Shell walks are unacceptable.

(b) *Common walk system*. A common walk system in mobile home parks shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three feet and meet the requirements of subsection (a) of this section.

(c) *Individual walks*. All mobile home stands shall be connected by individual walks to a common walk or paved street, or to a paved driveway or parking space which is connected to a paved street. Such individual walks shall have a minimum width of two feet and otherwise meet the requirements of subsection (a) of this section.

(Code 1974, § 10-36; Code 1994, § 50-145; Code 2005, § 50-218)

Sec. 50-219. Tiedown standards.

The tiedown standards of state law ~~Vernon's Ann. Civ. St. art. 5221f and appendix H of the International Building Code adopted in section 14-23~~ are hereby adopted.

(Code 1974, § 10-37; Code 1994, § 50-146; Code 2005, § 50-219)

Sec. 50-220. Fire hydrants.

Fire hydrants shall be placed on at least six-inch lines and all mobile home stands must be within 400 feet of the nearest fireplug.

(Code 1974, § 10-43; Code 1994, § 50-148; Code 2005, § 50-220)

Sec. 50-221. Electrical requirements.

The electrical requirements for mobile homes shall be the National Electrical Code, as applicable to mobile and manufactured homes.

(Code 1994, § 50-149; Code 2005, § 50-221)

Sec. 50-222. Management office; structural requirements for buildings.

(a) A permanent type management office shall be constructed at each licensed mobile home park. Construction standards for this office shall comply with the city building code. All other permanent type structures, except buildings housing sanitary facilities, shall be at the option of the licensee.

(b) All portions of a structure in a mobile home park shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior exposed portions of such materials shall be constructed and protected so as to prevent entrance or penetration of moisture and weather.

(c) All rooms in a mobile home park containing sanitary or laundry facilities shall have:

(1) Sound-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof material or covered with moisture-resistant material.

(2) At least one window or skylight facing directly to the outdoors. The minimum aggregate gross area of windows for each required room shall be not less than ten percent of the floor area served by them.

(3) At least one window which can be easily opened, or a mechanical device which will adequately ventilate the room.

(d) Toilets in mobile home parks shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type. The rooms shall be screened to prevent direct view of the interior when the exterior doors are open.

(Code 1974, § 10-50; Code 1994, § 50-150; Code 2005, § 50-222)

Sec. 50-223. Community service facilities.

Service buildings and other community service facilities shall conform to the International Plumbing Code, ~~appendix C, section C110,~~ adopted in section 14-252.

(Code 1994, § 50-151; Code 2005, § 50-223)

Sec. 50-224. Barbecue pits, fireplaces, stoves and incinerators.

(a) Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators used in mobile home parks shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisances, both on the property on which used and on neighboring property.

(b) No open fire shall be permitted in a mobile home park except in facilities provided therefor. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

(Code 1974, § 10-53; Code 1994, § 50-152; Code 2005, § 50-224)

Sec. 50-225. Refuse handling.

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(Code 1974, § 10-54; Code 1994, § 50-153; Code 2005, § 50-225)

Sec. 50-226. Fuel supply and storage.

(a) *Natural gas system.*

(1) Natural gas piping systems used in mobile home parks shall be installed and maintained in accordance with the building code and other regulations governing such systems.

(2) Each mobile home stand provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

(b) *Liquefied petroleum gas systems.*

(1) Liquefied petroleum gas systems used in mobile home parks shall be installed and maintained in accordance with applicable laws, ordinances and regulations governing such systems.

(2) Bulk storage and distribution system plans shall be submitted to the fire marshal for approval.

(c) *Fuel oil supply systems.*

(1) All fuel oil supply systems used in mobile home parks shall be installed and maintained in accordance with applicable laws, ordinances and regulations governing such systems.

(2) Storage tanks located in areas subject to traffic shall be protected against physical damage.

(Code 1974, § 10-55; Code 1994, § 50-154; Code 2005, § 50-226)

Sec. 50-227. Fire protection.

(a) Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

(b) Portable fire extinguishers of a type approved by the fire marshal shall be kept in mobile home park service buildings and all other locations designated by the fire marshal or fire inspectors, and such extinguishers shall be maintained in good operating condition.

(c) Fires in mobile home parks shall be made only in stoves, incinerators and other equipment intended for such purposes.

(d) Fire hydrants in mobile home parks shall be located within 400 feet of any mobile home service building or other structure in the park, on lines not less than six inches. Fire hydrant locations shall be determined by the fire marshal.

(Code 1974, § 10-56; Code 1994, § 50-155; Code 2005, § 50-227)

Secs. 50-228--50-247. Reserved.

ARTICLE III. INDUSTRIALIZED HOUSING AND COMMERCIAL BUILDINGS*

***State law reference—**Industrialized housing and buildings, V.T.C.A., Occupations Code ch. 1202.

Sec. 50-248. Local regulation.

(a) No industrialized housing and/or commercial building shall be erected or used unless all applicable city permits and licenses has been obtained.

(b) For purposes of this article, industrialized housing and buildings shall be deemed as real property.

(c) All industrialized housing and buildings shall:

(1) Comply with all applicable city standards, including, but not limited to, building setbacks, side and rear yard offsets, subdivision controls, landscaping requirements, square footage, and other site requirements applicable to single-family dwellings and commercial developments; and

(2) Be securely fixed to a permanent foundation. The term "permanent foundation" shall mean a foundation system with the following characteristics:

a. The foundation system is capable of transmitting all design loads imposed by or upon the foundation and the attached building into soil or bedrock without failure.

b The bottoms of the foundation supports extend below the depth of frost penetration, but not less than 12 inches below finish grade.

c. The components of the foundation system are designed to remain at the site.

d. The structure is attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that only operate during transportation.

(d) In addition to the above, single-family residential industrialized housing shall:

(1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county; and

(2) Have exterior siding, roofing, roof pitch, foundation fascia and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located.

(e) For purposes of subsection (d) of this section, the term "value" shall mean the cost of the home or building plus the unimproved land value.

(f) It shall be unlawful for any person to construct, erect, install, or move any industrialized housing or building into the city without having first obtained all required permits hereunder or pursuant to any other ordinance of the city applicable thereto. In addition to any other information required for said permits, the application shall:

(1) Identify each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located, and show the taxable value for each such dwelling as determined by the most recent certified tax appraisal roll for the county in which the property is located;

(2) Describe the exterior siding, roofing, roof pitch, foundation fascia, and fenestration for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located;

(3) Describe the permanent foundation and method of attachment proposed for the industrialized housing;

(4) Demonstrate compliance with subsection (d)(1) of this section; and

(5) Provide deed restrictions applicable to the real property on which the industrialized housing is to be located.

(g) Industrialized commercial buildings shall be exempt from the requirements of subsections (f)(1), (2) and (4) of this section.

(Code 2005, § 50-248; Ord. No. 2004-10, § 1, 8-2-2004)

Sec. 50-249. State regulation.

All industrialized, modular housing or industrialized commercial structures shall comply with applicable state and federal standards, and to such end each applicant for an industrialized housing or building permit shall:

(1) Provide a complete set of design plans and specifications bearing the stamp of the state industrialized building code council for each installation within the corporate limits;

(2) Have displayed on all modules or modular components an approved state decal or insignia; and

(3) Obtain final inspections and occupancy tests and approvals as required to establish compliance with mandatory state codes.

(Code 2005, § 50-249; Ord. No. 2004-10, § 1, 8-2-2004)

Chapters 51--53

RESERVED

Chapter 54

OFFENSES AND MISCELLANEOUS PROVISIONS*

***State law reference**—Concurrent jurisdiction of municipal court concerning certain violations of state statutes, V.T.C.A., Government Code § 29.003(b); municipality may not enact or enforce a law making conduct covered under state Penal Code an offense subject to criminal penalty, V.T.C.A., Penal Code § 1.08; criminal trespass, V.T.C.A., Penal Code § 30.05.

ARTICLE I. IN GENERAL

Sec. 54-1. Discharging firearms; penalty.

~~(a)~~ It shall be unlawful for any person to discharge any gun, pistol or other firearm, or any air rifle or air pistol, of any description, within the corporate boundaries of the city. This section shall not be construed to prohibit an officer of the law from discharging a firearm in the performance of his duty, nor to any citizen from discharging a firearm when lawfully defending persons or property; provided, however, that the provisions of this section shall not be applicable to the discharge of firearms at bona fide gun clubs lawfully operating pursuant to the city zoning ordinance (Appendix C to this Code).

~~(b) Any person who discharges any gun, pistol or other firearm, or any air rifle or air pistol of any description, by whatsoever name known, in violation of the provisions of this section shall, upon conviction, be fined pursuant to section 1-14.~~

(Code 1974, § 12-1; Code 1994, § 54-1; Code 2005, § 54-1; Ord. No. 91-28, §§ 1, 2, 10-21-1991)

State law reference—Municipal authority to regulate discharge of firearms in municipal limits, V.T.C.A., Local Government Code § 229.001(b); firearms, V.T.C.A., Local Government Code § 229.001; offense of discharging weapons, V.T.C.A., Penal Code § 42.01(7)--(9). ~~(9)--(11).~~

Sec. 54-2. Open parties, possession of alcoholic beverages or drugs by minors; penalty.

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

Alcoholic beverage shall have the meaning as defined in V.T.C.A., Alcoholic Beverage Code § 1.04.

Controlled substance ~~*drug*~~ shall have the meaning as defined in V.T.C.A., Health and Safety Code § 481.002.

Minor means any person under the age of 21 years.

Open party means a social gathering at a residence or premises at which nonfamily or nonrelated persons are present.

Residence or *premises* means a motel room, hotel room, home, apartment, condominium, or other dwelling unit, including the curtilage of the dwelling unit, or a hall, meeting room, or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented or used with or without compensation.

(b) *Prohibition*. It shall be unlawful for any person owning or having possession or control of a residence or premises to allow an open party to take place at such residence or premises if alcoholic beverages or controlled substances ~~drugs~~ are possessed, consumed or used by any minor thereat and if such person knew or reasonably should have known of the existence of such possession, consumption or use. It shall be a defense to prosecution under this section that such person took reasonable measures to prevent or eliminate any prohibited possession, consumption or use of an alcoholic beverage or controlled substance ~~drug~~ as set forth in this section.

(c) *Exceptions*. The provisions of this section shall not apply to:

(1) The possession, consumption or use of an alcoholic beverage by a minor while in the presence of such minor's parent, legal guardian, grandparent, or aunt or uncle if such parent, legal guardian, grandparent, or aunt or uncle is not a minor; or

(2) The possession, consumption or use of a controlled substance ~~drug~~ by a minor pursuant to a lawful prescription issued by a medical doctor.

~~(d) *Penalty*. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished pursuant to section 1-14.~~

(Code 1994, § 54-2; Code 2005, § 54-2; Ord. No. 91-11, § 4, 4-1-1991)

Secs. 54-3--54-22. Reserved.

ARTICLE II. CURFEW FOR MINORS*

***State law reference**—General authority for juvenile curfew, V.T.C.A., Local Government Code § 341.905; county juvenile curfew, V.T.C.A., Local Government Code § 351.903.

Sec. 54-23. Findings.

The facts and matters set forth in the preamble of the ordinance from which this article is derived are hereby found to be true and correct.

(Code 1994, § 54-31; Code 2005, § 54-23; Ord. No. 2002-14, § 1, 7-15-2002; Ord. No. 2005-18, § 1, 7-25-2005; Ord. No. 2008-23, § 1, 7-21-2008; Ord. No. 2017-35, § 1, 12-4-2017)

Sec. 54-24. Purpose.

It is the express purpose of this article to:

(1) Deter criminal conduct involving juveniles;

(2) Reduce the number of juvenile crime victims;

(3) Reduce injury from accidents involving juveniles;

(4) Reduce the additional time police officers are required to be in the field due to juvenile crime;

(5) Provide additional and more effective means and options for dealing with gang-related violence and crime;

(6) Reduce juvenile peer pressure to stay out late;

(7) Reduce juvenile peer pressure to participate in violence or criminal activities; and

(8) Assist parents in the control of their children.

(Code 1994, § 54-32; Code 2005, § 54-24; Ord. No. 2002-14, § 2, 7-15-2002; Ord. No. 2005-18, § 2, 7-25-2005; Ord. No. 2008-23, § 2, 7-21-2008; Ord. No. 2017-35, § 2, 12-4-2017)

Sec. 54-25. 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: ~~For purposes of this Ordinance the following words or terms shall have the meanings ascribed thereto:~~

Curfew hours means:

(1) 12:01 a.m. until 5:00 a.m. on any day of the week; and

(2) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday; provided, however, the hours defined in this subsection shall not be considered as curfew

hours for minors not subject to compulsory school attendance, pursuant to V.T.C.A., Education Code § 21.032, nor shall the hours defined in this subsection be considered as curfew hours on days or during periods in which the school where the applicable minor is enrolled have been cancelled under the order and direction of officials authorized to issue such orders and directives.

Emergency means any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Guardian means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is a natural parent, adoptive parent, or stepparent of a minor, or a person at least 21 years of age who is authorized by the parent or guardian of a minor to have the care and custody of such minor.

Police department means the city police department.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, restaurants, theaters, game rooms, shops, shopping centers or any other place that offers for sale services or merchandise.

Remain means to linger or stay, or fail to leave premises, when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious bodily injury 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.

(Code 1994, § 54-33; Code 2005, § 54-25; Ord. No. 2002-14, § 3, 7-15-2002; Ord. No. 2005-18, § 3, 7-25-2005; Ord. No. 2008-23, § 3, 7-21-2008; Ord. No. 2017-35, § 3, 12-4-2017)

Sec. 54-26. Offenses.

(a) It shall be unlawful for any minor to knowingly remain, walk, run, or stand, or operate or ride in any motor vehicle or on any bicycle, in or upon any public place or on the premises of any establishment within the city during curfew hours.

(b) It shall be unlawful for the parent or guardian of a minor to knowingly permit or, by insufficient control, allow a minor to remain in or upon any public place or on the premises of any establishment within the city during curfew hours.

(c) It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of an establishment during curfew hours.

(Code 1994, § 54-34; Code 2005, § 54-26; Ord. No. 2002-14, § 4, 7-15-2002; Ord. No. 2005-18, § 4, 7-25-2005; Ord. No. 2008-23, § 4, 7-21-2008; Ord. No. 2017-35, § 4, 12-5-2017)

Sec. 54-27. Defenses.

(a) It shall be a defense to prosecution under section 54-26 that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in lawful employment activity, going directly to the employment activity, or returning directly to the minor's residence from the employment activity;

(5) Involved in an emergency;

(6) On an errand made necessary by an illness, injury, or emergency;

(7) On the sidewalk or public right-of-way abutting the minor's permanent residence;

(8) Attending a school, religious, government-sponsored, or other civic activity supervised by adults and sponsored by an educational, religious, or governmental institution, civic organization, or other similar entity, or traveling directly to or returning from any such school, religious, governmental, or civic activity;

(9) Engaged in, participating in, or traveling to or from any event, function, or activity for which the application of section 54-26 would contravene the minor's rights protected by the United States Constitution, including, but not limited to, First Amendment rights, such as the free exercise of religion, freedom of speech, or the right of assembly; or

(10) Married or had been married, or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.

(b) It is a defense to prosecution under section 54-26(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and the minor refused to leave.

(c) It is a defense to prosecution under section 54-26 that the minor had been directed by his parent or guardian to engage in a specific activity or to carry out expressed instructions during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

(Code 1994, § 54-35; Code 2005, § 54-27; Ord. No. 2002-14, § 5, 7-15-2002; Ord. No. 2005-18, § 5, 7-25-2005; Ord. No. 2008-23, § 5, 7-21-2008; Ord. No. 2017-35, § 5, 12-5-2017)

Sec. 54-28. Enforcement.

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. The officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response or other circumstance, no defense in section 54-27 is present.

(Code 1994, § 54-36; Code 2005, § 54-28; Ord. No. 2002-14, § 6, 7-15-2002; Ord. No. 2005-18, § 6, 7-25-2005; Ord. No. 2008-23, § 6, 7-21-2008; Ord. No. 2017-35, § 6, 12-5-2017)

Sec. 54-29. Penalties.

(a) A person who violates any provisions of this article shall be deemed guilty of a misdemeanor~~ and, upon conviction, shall be fined in an amount not to exceed $500.00. Each day of violation shall constitute a separate offense~~.

(b) When required by V.T.C.A., Family Code § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 54-26(a) and shall refer the minor to the juvenile court.

(Code 1994, § 54-37; Code 2005, § 54-29; Ord. No. 2002-14, § 7, 7-15-2002; Ord. No. 2005-18, § 7, 7-25-2005; Ord. No. 2008-23, § 7, 7-21-2008; Ord. No. 2017-35, § 7, 12-5-2017)

~~**Sec. 54-30. Notice and effective date.**~~

~~The city secretary shall give notice of the enactment of this article by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the city; the article to take effect upon publication.~~

~~(Ord. No. 2017-35, § 8, 12-5-2017)~~

~~**Section 9. Repeal.**~~

~~All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.~~

~~(Ord. No. 2017-35, § 9, 12-5-2017)~~

~~**Section 10. Severability.**~~

~~In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, declares that it would have passed each and every part thus declared to be invalid or unconstitutional, whether there be one or more parts.~~

~~(Ord. No. 2017-35, § 10, 12-5-2017)~~

Secs. 54-30--54-46. Reserved.

ARTICLE III. PROTECTION OF CITIZENS, EMPLOYEES, MUNICIPAL PROPERTY

Sec. 54-47. Policy and intent.

It is the policy of the city to protect its employees, its citizens, and municipal property, and further to provide its employees with a safe workplace, free from abusive conduct, harassment, verbal or physical abuse, or other conduct which interferes with the efficient completion of city business. Similarly, the city wishes to provide its citizens and other users of city offices with polite, efficient and safe customer service and municipal facilities. It is not the intent of this section to preclude individuals from city services, or to limit the obtaining of information from city offices.

(Code 1994, § 54-40; Code 2005, § 54-47; Ord. No. 2000-18, § 1, 7-24-2000)

Sec. 54-48. Interfering with city officers and employees.

(a) For the purposes of this section, an officer or employee includes any permanent or temporary employee of the city, any work-study or educational program hires, and the mayor, city council members, and the members and alternate members of the boards, commissions and committees of the city ~~listed in section 2-140, Code of Ethics chapter 2~~.

(b) No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the city who is engaged in, en route to or returning from, the performance of official duties, whether such interference, hindrance or obstruction is by threat, assault, harassment, or other behavior.

(Code 1994, § 54-41; Code 2005, § 54-48; Ord. No. 2000-18, § 1, 7-24-2000)

~~**Sec. 54-49. Disorderly conduct generally.**~~

~~Any person who shall do or engage in any of the following shall be guilty of disorderly conduct and a class B or C misdemeanor, in accordance with V.T.C.A., Penal Code § 42.01:~~

~~(1) Act in a violent or tumultuous manner toward another, whereby any person is placed in danger of safety of his life, limb or health.~~

~~(2) Act in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged.~~

~~(3) Endanger lawful pursuits of another by acts of violence or threats of bodily harm.~~

~~(4) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.~~

~~(5) Assemble or congregate with another or others and cause, provoke or engage in any fight of brawl.~~

~~(6) Assemble in bodies or in crowds and engage in unlawful activities.~~

~~(7) Assemble or congregate with another or others and do bodily harm to another.~~

~~(8) By acts of violence, interfere with another's pursuit of a lawful occupation, including the conduct of city business, whether the person so interfered with is a city employee or an individual conducting business with the city.~~

~~(9) Congregate with another or others in or on any public way or in a public building so as to halt the flow of vehicular or pedestrian traffic and refuse to clear such public way when ordered to do so by a peace officer, a supervisor, or other person having authority.~~

~~(Code 1994, § 54-42; Ord. No. 2000-18, § 1, 7-24-2000)~~

~~**Sec. 54-50. Other prohibited conduct.**~~

~~In order to conduct city business in a prompt, orderly and efficient manner, the following conduct shall be prohibited, and anyone who engages in such conduct, either on city premises or by telephone, electronic computer e-mail or regular mail, shall be guilty of trespass, disorderly conduct, harassment or stalking, as appropriate under V.T.C.A., Penal Code §§ 30.05, 42.01, 42.07 or other applicable laws.~~

~~(1) Physical abuse or assault of city employees, other citizens or users of city facilities, or other individual on city property. Such behavior includes, but is not limited to, unwanted touching, or sexual harassment.~~

~~(2) Verbal abuse of city employees, other citizens or users of city facilities, or other individuals on city property. Such behavior includes, but is not limited to, the use of obscene language, threatening language, sexual harassment, badgering of employees.~~

~~(3) Harassment or intimidation of employees, citizens, or other users of city facilities and functions. This includes behavior described above in subsections (1) and (2), and also includes behavior which threatens or intimidates an individual, such as stalking.~~

~~(4) Interfering with the completion of work related duties by employees.~~

~~(Code 1994, § 54-43; Ord. No. 2000-18, § 1, 7-24-2000)~~

~~**Secs. 54-51--54-73. Reserved.**~~

Sec. 54-49. Carrying firearms prohibited.

(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:

Concealed handgun means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

Firearm means any device designed, made or adapted to expel a projectile through a barrel by using the energy generated by an explosive or burning substance or any device readily convertible to that use. The term "firearm" does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this section and that is:

(1) An antique or curio firearm manufactured before 1899; or

(2) A replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

Handgun has the meaning assigned by V.T.C.A., Penal Code § 46.01.

Public meeting of the city means all meetings, notice of which has been posted pursuant to the Open Meetings Law or city policy, and any other meeting of the mayor or city council or its individual members to which members of the public have been invited to attend.

(b) It is unlawful for a person, other than a person licensed to carry a concealed handgun under the authority of V.T.C.A., Government Code § 411.171 et seq., to carry a firearm at a:

(1) Public park;

(2) Public meeting of the city council;

(3) Political rally, parade or other official political meeting, unless the parade permit approved by the city council specifically authorizes the carrying of unloaded firearms during the parade;

(4) Non-firearms-related school, college or professional athletic event.

(c) The city manager, or his/her designee, is authorized to place or permit the placement of signs on all property and buildings, including any portion thereof, which are owned, leased, controlled, operated, used or managed by the city, which give notice, as provided by V.T.C.A., Penal Code §§ 30.05 and 30.06, that entry onto the city-owned, leased, controlled, operated, used or managed property and buildings, or portions thereof, by persons carrying concealed handguns or other weapons is forbidden. All city employees, independent contractors of the city, and persons holding a security officer commission issued by the state board of private investigators and private security agencies while performing contracted security services for the city are authorized to give a verbal notice, as provided by V.T.C.A., Penal Code § 30.05, that entry onto city-owned, leased, controlled, operated, used or managed property and buildings, or portions thereof, by persons carrying concealed handguns or other weapons is forbidden. All persons who enter or remain on property or buildings, or any portion thereof, which are owned, leased, controlled, operated, used or managed by the city, contrary to a posted or verbal notice, shall be considered trespassers.

(d) This section shall not apply to law enforcement officers licensed or commissioned pursuant to federal or state law, persons holding a security officer commission issued by the state board of private investigators and private security agencies while in the performance of their official duties, or members of the armed forces or national guard while in the performance of their official duties.

(e) Nothing in this section shall be construed to prohibit a person holding a valid concealed gun license holder from entering municipal government buildings during hours open to the public, the exception being those buildings containing court facilities or offices utilized by the court.

(Code 1994, § 54-50; Code 2005, § 54-74; Ord. No. 2000-18, § 1, 7-24-2000)

State law reference—Unlawful carrying of weapons, V.T.C.A., Penal Code § 46.02; places where weapons prohibited, V.T.C.A., Penal Code § 46.03; trespass by concealed handgun license holder, V.T.C.A., Penal

Code § 30.06; municipal authority to regulate carrying of firearms in certain locations or at certain events, V.T.C.A., Local Government Code § 229.001(b).

Sec. 54-50. Penalties.

(a) Individuals believed to be violating the above standards shall be cited to appear before the appropriate court.

(b) Penalties shall be as established by law.

(c) Penalties may include the exclusion of an individual from certain or all city facilities.

(Code 1994, § 54-51; Code 2005, § 54-75; Ord. No. 2000-18, § 1, 7-24-2000)

Secs. 54-51--54-93. Reserved.

ARTICLE IV. NOISE*

*State law reference—Presumption of unlawful noise, V.T.C.A., Penal Code § 42.01(c).

Sec. 54-94. 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:

Daytime hours means the hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

dB(A) means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.

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

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours means the hours between 10:00 p.m. on one day and 7:00 a.m. the following day.

Nonresidential property means any real property within the limits of the city that is not included in the definition of residential property as defined in this section.

Person means any individual, association, partnership, or corporation, or other legal entity.

Property line means the line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

Public right-of-way means any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or any other property that is owned or controlled by a governmental entity.

Residential property means any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

Sound nuisance means any sound which either exceeds the maximum permitted sound levels specified in section 54-95, or for purposes of sections 54-96 and 54-97, otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(Code 2005, § 54-94; Ord. No. 2004-27, § 2(54-110), 11-15-2004)

Sec. 54-95. Maximum permissible sound levels.

(a) No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being received that when measured as provided in section 54-102 exceeds the applicable dB(A) level listed below for the property on which the sound is received.

(1) *Residential property.*

a. 65 dB(A) during daytime hours.

b. 58 dB(A) during nighttime hours.

(2) *Nonresidential property.* 70 dB(A) during either daytime or nighttime hours.

(b) The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) levels set forth in this section is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section, when measured at the site where the sound is being produced, if available, shall be prima facie evidence of a sound nuisance which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city in violation of this article.

(Code 2005, § 54-95; Ord. No. 2004-27, § 2(54-111), 11-15-2004)

Sec. 54-96. General prohibition.

(a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued or permit the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 54-95, or for purposes of this section and section 54-98, otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety or others within the limits of the city.

(b) The acts enumerated in the following sections of this article, among others, are declared to be sound nuisances that are unreasonably loud, disturbing, or constitute excessive sounds in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Code 2005, § 54-96; Ord. No. 2004-27, § 2(54-112), 11-15-2004)

Sec. 54-97. Noisy vehicles generally.

The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such a manner so as to create loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(Code 2005, § 54-97; Ord. No. 2004-27, § 2(54-113), 11-15-2004)

Sec. 54-98. Amplified sound from meter vehicle.

The production or reproduction of sound from amplification equipment contained in or mounted on a motor vehicle that produces sound in excess of the limits set forth in section 54-95, when measured at or near 15 feet from the nearest external point on the vehicle, is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, except as permitted by section 54-103.

(Code 2005, § 54-98; Ord. No. 2004-27, § 2(54-114), 11-15-2004)

Sec. 54-99. Noisy animals and birds.

The keeping of any animal or bird which causes or makes frequent or long and continued sound which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in section 54-95.

(Code 2005, § 54-99; Ord. No. 2004-27, § 2(54-115), 11-15-2004)

Sec. 54-100. Trash collection.

The collection of trash and refuse by a contractor or private individual from a commercial establishment located on property which is adjacent to residential uses between the hours of 9:00 p.m. and 8:00 a.m.

(Code 2005, § 54-100; Ord. No. 2004-27, § 2(54-116), 11-15-2004)

Sec. 54-101. Defenses.

The following defenses shall apply to any offense established in this article:

(1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.

(2) The sound was produced by an authorized emergency vehicle.

(3) The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster.

(4) The sound was generated:

a. At a lawfully scheduled stadium event;

b. By a parade and spectators and participants on the parade route during a permitted parade;

c. By spectators and participants at a lawfully scheduled amphitheater event;

d. By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;

e. By a pyrotechnic display that was inspected and approved by the fire marshal;

f. By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city; or

g. By any other lawful activity that constitutes protected expression pursuant to the First Amendment of the United States Constitution.

(5) The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted between the hours of 7:00 a.m. and 8:00 p.m. and which activity did not produce a sound exceeding 75 dB(A) when measured from the nearest residential property where the sound is being received.

(6) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.

(7) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 8:00 p.m. and which device did not produce a sound exceeding 85 dB(A) when measured from the nearest residential property where the sound is being received and was used for the maintenance or upkeep of the property on which it was used.

(8) The sound was generated as authorized under the terms of a permit issued under section 54-103.

(9) The sound was produced by the operation of any air conditioning unit which did not produce a sound exceeding 65 dB(A) on residential property or 75 dB(A) on nonresidential property, when measured at or near 15 feet from the air conditioning unit producing the sound being measured.

(10) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours and which did not exceed five continuous minutes in duration in any one-hour period.

(Code 2005, § 54-101; Ord. No. 2004-27, § 2(54-117), 11-15-2004)

Sec. 54-102. Methods of sound measurement.

Whenever portions of this article prohibit sound over a certain decibel limit, measurement of said should shall be made with a Type 1 or Type 2 calibrated sound level meter utilizing the A-weighting seals and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A). Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated as dB(A). Meters shall be maintained in calibration and good working order. Calibrations shall be employed which meet ANSI Sl.40-1984 prior to and immediately after every sampling of sound. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of said meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for said microphone shall be used. Except as provided in sections 54-98 and 54-99, measurements shall be taken at or near the nearest property line of the property where the sound is being received.

(Code 2005, § 54-102; Ord. No. 2004-27, § 2(54-118), 11-15-2004)

Sec. 54-103. Permit required for use of outdoor sound amplification equipment.

(a) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner which exceeds the levels specified in section 54-95, when measured from the property where the sound is being received, without first obtaining a permit to do so. Such permit:

(1) May be obtained by making application to the director of the city department so designated by the mayor.

(2) Requires payment of a ~~$10.00~~ fee for the administrative costs of issuing the permit as set by resolution and printed in Appendix D to this Code.

(3) Is valid for one 14-hour period between the hours of 8:00 a.m. and 10:00 p.m.

(4) Shall not be issued for the same location more than twice during any 30-day period.

(5) Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound which exceeds 75 dB(A) when measured from the nearest receiving property.

(b) The use of any loudspeaker, loudspeaker system, sound amplifier or any other similar machine or device which is permitted pursuant to this section is subject to the following regulations:

(1) The only sound permitted shall be either music or human speech, or both.

(2) The volume of the sound amplified pursuant to this section shall not exceed 75 dB(A) when measured from the nearest receiving property.

(3) No equipment permitted pursuant to this section shall be operated during the hours between 10:00 p.m. and 8:00 a.m.

(c) The application for the permit required to be filed pursuant to this section shall contain the following information:

(1) The date of the application and the date and hours for which the permit is requested.

(2) The name, ~~and~~ address and primary e-mail address of the applicant.

(3) The name, ~~and~~ address and primary e-mail address of the person who will have charge of the sound amplifying equipment.

(4) The purpose for which the sound equipment will be used.

(5) The address and a description of the location where the sound equipment will be used.

(6) A description of the type of sound amplifying equipment to be used.

(d) If an applicant for a permit under this section is unable to pay the full amount of the permit fee pursuant to subsection (a) of this section, the fee shall be reduced to that amount the applicant is able to pay, provided the applicant submits a sworn affidavit containing the following information:

(1) A statement that the applicant and the group or organization, on whose behalf he is making the application, are unable to pay the full amount of the permit fee.

(2) A statement that the applicant and the group or organization, on whose behalf he is making the application, have made diligent efforts to raise money to pay the permit fee.

(3) A statement of the exact amount the applicant and the group or organization, on whose behalf he is making the application, is able to pay for the permit fee.

(Code 2005, § 54-103; Ord. No. 2004-27, § 2(54-119), 11-15-2004)

Sec. 54-104. Penalty.

Any person who violates any provision of this article ~~chapter~~ is guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than $50.00 nor more than $1,000.00. Upon a second or subsequent conviction for a violation of this article within a 12-month period, said person shall be fined not less than $100.00 nor more than $2,000.00. Each day that any violation continues shall constitute a separate offense. To the extent that any conduct prohibited under this article also constitutes an offense under state law, then it shall be punishable as provided by state law.

(Code 2005, § 54-104; Ord. No. 2004-27, § 2(54-120), 11-15-2004)

Sec. 54-105. Zoning standards.

There are standards for exterior noise contained in section 8.J.2 of the zoning ordinance of the city (Appendix C to this Code) that are also found to be a nuisance under this article and are hereby prohibited.

(Code 2005, § 54-105; Ord. No. 2004-27, § 2(54-121), 11-15-2004)

Secs. 54-106--54-120. Reserved.

ARTICLE V. ALARM SYSTEMS*

~~**Editor's note--**Ord. No. 2008-36, § 1, adopted Oct. 20, 2008, repealed the former Art. V., §§ 54-121, 54-141--54-143, 54-170, and 54-171, and enacted a new Art. V as set out herein. The former Art. V pertained to similar subject matter and was derived from Code 1994, §§ 54-81, 54-91--54-93, 54-101, 54-102; Ord. No. 2003-01, § 1, adopted Jan. 20, 2003; and Ord. No. 2003-05, § 1, adopted April 21, 2003.~~

***State law reference—**Burglar alarm systems, V.T.C.A., Local Government Code § 214.191 et seq.; duration of municipal permit, V.T.C.A., Local Government Code § 213.193; maximum $50.00 fee for annual municipal permit, V.T.C.A., Local Government Code § 214~~3~~.194; local governments cannot enact ordinances inconsistent with state law regarding fire alarm systems, V.T.C.A., ~~V.A.T.S.~~ Insurance Code § 6002.003 ~~art. 5.43-2, § 3(a)~~; license holders for emergency alarm systems installation and operation, exempt from certain local regulations, V.T.C.A., Occupations Code § 1702.134; municipality may charge reasonable inspection fees for device causing five false alarms in 12-month period, V.T.C.A., Occupations Code § 1702.134(b)(2). ~~(2)(c).~~

Sec. 54-121. 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 administrator means a person designated by the governing authority to administer, control and review false alarm reduction efforts and administers the provisions of this article.

Alarm dispatch request means a notification to the city that an alarm has been activated at a particular alarm site and that city emergency service is requested.

Alarm installation company means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site.

Alarm permit means authorization granted by the alarm administrator to an alarm user to operate an alarm system.

Alarm permit application means the written application for an alarm permit filed by an alarm user with the alarm administrator.

Alarm site means a single fixed premises or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multi-unit building or complex, shall be considered a separate alarm site, and is further defined by the following categories:

Commercial site means every premises or location where any business activity is regularly conducted and which is served by an alarm system. Each unit of a business premises or business location, if served by a separate alarm system in a multi-unit building or complex, shall be considered a separate commercial alarm system site.

Educational/government site means every premises or location of a public or private school or school administrative office and every premises or location of any federal, state, county or municipal governmental office.

Financial site means every premises or location of a financial institution which is required to have an alarm system pursuant to the Bank Protection Act of 1968 (12 USC 1882).

Residential site means a single-family residence and each residential unit of a multi-unit building or complex which is served by an alarm system.

Alarm system means a device or system that transmits a signal intended to summon a city emergency service response. The term "alarm system" includes an alarm that emits an audible signal on the exterior of a structure. The term "alarm system" does not include an alarm installed

on a vehicle, unless the vehicle is used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises.

Alarm user means any person who owns or operates an alarm system at an alarm site.

Arming station means a device that allows control of an alarm system.

Automatic voice dialer means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a city emergency service requesting dispatch.

Cancellation means the process where response is terminated when a monitoring company (designated by the alarm user) for the alarm site notifies the responding city emergency service that there is not an existing situation at the alarm site requiring a response after an alarm dispatch request.

~~*City* means the City of Friendswood, Texas.~~

City emergency service means any emergency service provided by the city, including police, fire, and emergency medical services.

~~*City manager* means the City Manager of the City of Friendswood, Texas, or the city manager's designee.~~

Duress alarm means a silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system and requires law enforcement response.

False alarm means an alarm dispatch request that has generated a city emergency service response, which is canceled, or when no emergency condition is found at the alarm site. A false alarm shall not be considered to have occurred unless a response is made by an agency of the city within 30 minutes of the alarm notification and the agency determines from an inspection of the interior or exterior of the premises that the alarm was false.

Holdup alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Local alarm system means any alarm system, which is not monitored, that emits an audible alarm only at the alarm site.

Monitoring means the process by which a monitoring company receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning city emergency services to the alarm site.

Monitoring company means a person in the business of providing monitoring services.

Panic alarm means an audible alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring emergency response.

~~*Person* means an individual, corporation, partnership, association, organization or similar entity.~~

Responder means an individual capable of reaching the alarm site within 30 minutes and having access to the alarm site, the code to the alarm system and the authority to approve repairs to the alarm system.

SIA Control Panel Standard CP-01 means the ANSI - American National Standard Institute approved Security Industry Association - SIA CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally

recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

Transfer means the transaction or process by which an alarm user takes over control of an existing alarm system, which was previously controlled by another alarm user.

Verify means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting city emergency service dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this article, telephone verification shall require, as a minimum, that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to determine whether an alarm signal is valid before requesting an emergency response.

Zones mean division of devices into which an alarm system is divided to indicate the general location from which an alarm system signal is transmitted.

(Code 2005, § 54-121; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-122. Permit required; application; fee; transferability; false statements.

(a) No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit. A separate alarm permit is required for each alarm site.

(b) The fee for an alarm permit or an alarm permit renewal is set by resolution and printed in Appendix D to this Code ~~forth below~~ and shall be paid by the alarm user. No refund of a permit or permit renewal fee will be made. The initial alarm permit fee must be submitted to the alarm administrator within five days after the alarm system installation or an alarm system transfer.

~~(1) Permit fees - (See Appendix C, Fines and Fees).~~

~~(2) Renewal fees - (See Appendix C, Fines and Fees).~~

(c) Upon receipt of a completed alarm permit application form and the alarm permit fee, the alarm administrator shall register the applicant unless the applicant has:

(1) Failed to pay a fine assessed under section 54-127; or

(2) Had an alarm permit for the alarm site suspended and the violation causing the suspension has not been corrected.

(d) Each alarm permit application must include the following information:

(1) The name, complete address (including apartment/suite number), primary e-mail address and telephone numbers of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;

(2) The classification of the alarm site as either residential (includes apartment, condo, mobile home, etc.), commercial, financial, or educational/government;

(3) For each alarm system located at the alarm site, the classification of the alarm system (i.e., burglary, holdup, fire, emergency medical, duress, panic alarms or other) and for each classification whether such alarm is audible or silent;

(4) Mailing address, if different from the address of the alarm site;

(5) Any dangerous or special conditions present at the alarm site;

(6) Names and telephone numbers of at least two individuals who are able and have agreed to:

a. Receive notification of an alarm system activation at any time;

b. Respond to the alarm site within 30 minutes at any time; and

c. Upon request, grant access to the alarm site and deactivate the alarm system if necessary;

(7) Type of business conducted at a commercial alarm site;

(8) Signed certification from the alarm user stating the following:

a. The date of installation or transfer of the alarm system, whichever is applicable;

b. The name, address, primary e-mail address and telephone number of the alarm installation company or companies performing the alarm system installation or transfer and of the alarm installation company responsible for providing repair service to the alarm system;

c. The name, address, primary e-mail address and telephone number of the monitoring company if different from the alarm installation company;

d. That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been left with the applicant by the alarm installation company;

e. An acknowledgment that the alarm installation company has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms; and

f. An acknowledgment that the alarm user understands and agrees that a city emergency service response may be influenced by factors, including, but not limited to, the availability of city emergency service units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.

(e) Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit or for suspension of an existing permit.

(f) An alarm permit cannot be transferred to another person or alarm site. An alarm user shall inform the alarm administrator of any change that alters any of the information listed on the alarm permit application within five business days of such change.

(g) All fines and fees owed by an applicant must be paid before an alarm permit may be issued or renewed.

(Code 2005, § 54-122; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-123. Alarm permit duration and renewal.

An alarm permit shall expire 12 months from the date of issuance, and must be renewed annually by submitting an updated application and a permit renewal fee to the alarm administrator. It is the responsibility of the alarm user to submit an application prior to the permit expiration date. Failure to renew will be classified as use of a nonpermitted alarm system and fines shall be assessed. A ~~$10.00~~ late fee may be assessed if the renewal is more than 30 days late.

(Code 2005, § 54-123; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-124. Duties of the alarm user.

(a) An alarm user shall:

(1) Maintain the alarm site and the alarm system in a manner that will minimize or eliminate false alarms;

(2) Make every reasonable effort to have a responder arrive at the alarm system's location within 30 minutes when requested by a city emergency service in order to:

a. Deactivate an alarm system;

b. Provide access to the alarm site; and/or

c. Provide alternative security for the alarm site;

(3) Not activate an alarm system for any reason other than an occurrence of an event that the alarm system was intended to report.

(b) An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than ten minutes after being activated.

(c) An alarm user shall not use automatic voice dialers.

(d) An alarm user shall maintain at each alarm site, a set of written operating instructions for each alarm system.

(e) All alarm users shall review with their alarm installation company and/or monitoring company the customer false alarm prevention checklist (see ~~Appendix B~~ section 54-134) or an equivalent checklist approved by the alarm administrator and acknowledge their understanding of false alarm prevention procedures by signing and dating same. A fully executed copy of the customer false alarm prevention checklist shall be filed with the original application for an alarm permit.

(Code 2005, § 54-124; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-125. Duties of alarm installation company and monitoring company.

(a) The alarm installation company shall provide written and oral instructions to each of its alarm users in the proper use and operation of their alarm systems. Such instructions will specifically include all instructions necessary to turn the alarm system on and off and to avoid false alarms.

(b) Upon the effective date of the ordinance from which this article is derived, alarm installation companies shall not install a device to activate a holdup alarm which is a single action, non-recessed button.

(c) Ninety days after enactment of the ordinance from which this article is derived, the alarm installation companies shall, on new installations, use only alarm control panels which meet SIA Control Panel Standard CP-01.

(d) An alarm company shall not use automatic voice dialers.

(e) After completion of the installation of an alarm system, an alarm installation company employee shall complete, sign and date the installer false alarm prevention program checklist (~~Appendix A~~ section 54-133) or an equivalent checklist approved by the alarm administrator.

(f) ~~After completion of the installation of an alarm system, an alarm installation company employee shall complete, sign and date the installer false alarm prevention program checklist (Appendix A section 54-133) or an equivalent checklist approved by the alarm administrator.~~ The alarm installation company shall maintain a copy of each completed, signed and dated installer false alarm prevention program checklist for a period of two years.

(g) A monitoring company shall:

(1) Report alarm signals by using telephone numbers designated by the alarm administrator;

(2) Verify every alarm signal, except a duress or holdup alarm activation, before requesting a city emergency service response to an alarm system signal;

(3) Communicate alarm dispatch requests to the city in a manner and form determined by the alarm administrator;

(4) Communicate cancellations to the city in a manner and form determined by the alarm administrator;

(5) Ensure that all alarm users of alarm systems equipped with a duress, holdup or panic alarm are given adequate training as to the proper use of the duress, holdup or panic alarm;

(6) Communicate any available information (north, south, front, back, floor, etc.) about the location on all alarm signals related to the alarm dispatch request;

(7) Communicate type of alarm activation (silent or audible, interior or perimeter);

(8) Provide the address of the alarm site;

(9) After an alarm dispatch request, promptly advise the responding city emergency service if the monitoring company knows that the alarm user or the responder has or has not been contacted;

(10) Upon the effective date of the ordinance from which this article is derived, monitoring companies must maintain for a period of at least one year from the date of the alarm dispatch request, records relating to alarm dispatch requests. Records must include the name, address, primary e-mail address and telephone number of the alarm user, the alarm system zone activated, the time of alarm dispatch request and evidence of an attempt to verify. The alarm administrator may request copies of such records for individually named alarm users. If the request is made within 60 days of an alarm dispatch request, the monitoring company shall furnish requested records within ten business days of receiving the request. If the records are requested between 60 days to one year after an alarm dispatch request, the monitoring company shall furnish the requested records within 30 days of receiving the request.

(h) An alarm installation company and/or monitoring company that purchases alarm system accounts from another person shall notify the alarm administrator of such purchase and provide details as may be reasonably requested by the alarm administrator.

(Code 2005, § 54-125; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-126. Duties and authority of the alarm administrator.

(a) The alarm administrator shall:

(1) Designate a manner, form and telephone numbers for the communication of alarm dispatch requests; and

(2) Establish a procedure to accept cancellation of alarm dispatch requests.

(b) The alarm administrator shall establish a procedure to record such information on alarm dispatch requests necessary to permit the alarm administrator to maintain records, including, but not limited to, the information listed below.

(1) Identification of the permit number for the alarm site;

(2) Identification of the alarm site;

(3) Date and time alarm dispatch request was received;

(4) Date and time of the city emergency service arrival at the alarm site and the disposition of the call.

(c) The alarm administrator shall establish a procedure for the notification to the alarm user of a fineable false alarm.

(d) The alarm administrator may require a conference with an alarm user and the alarm installation company and/or monitoring company responsible for the repair or monitoring of the alarm system to review the circumstances of each false alarm.

(e) The alarm administrator may create and implement an alarm user awareness class. The alarm administrator may request the assistance of associations, alarm companies and law enforcement agencies in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and teach alarm users how to avoid generating false alarms.

(f) The alarm administrator may require an alarm user to remove a holdup alarm that is a single action, non-recessed button, if a false holdup alarm has occurred.

(Code 2005, § 54-126; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-127. Fines.

(a) An alarm user shall be subject to fines, depending on the number of false alarms within any 12-month period based upon the schedule set forth in Appendix D to this Code ~~C, Fines and Fees~~.

(b) In addition, any person operating a nonpermitted alarm system will be subject to a fine (see Appendix D to this Code ~~C, Fines and Fees~~) for each false alarm in addition to any other fines. The alarm administrator may waive this additional fine for a non-permitted system if the alarm user submits an application for alarm permit within ten days after notification of such violation.

(c) The alarm installation company shall be subject to a fine (see Appendix D to this Code ~~C, Fines and Fees~~) if the responding city emergency service determines that an on-site employee of the alarm installation company directly caused the false alarm. In this situation, the false alarm will not be counted against the alarm user.

(d) The monitoring company shall be subject to a fine (see Appendix D to this Code ~~C, Fines and Fees~~) for each failure to verify alarm system signals as specified in section 54-125(g)(2).

(e) The alarm installation company shall be subject to a fine (see Appendix D to this Code ~~C, Fines and Fees~~) if the alarm administrator determines that an alarm installation company employee knowingly made a false statement concerning the inspection of an alarm site or the performance of an alarm system.

(f) Notice of the right of appeal under this article will be included with any fines.

(Code 2005, § 54-127; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-128. Suspension of permit.

(a) The alarm administrator may suspend any alarm permit upon the occurrence of any of the following conditions:

(1) If the alarm user provides any false information in, or in connection with, an alarm permit application;

(2) If an alarm site has more than 12 false alarms in any 12-month period; or

(3) If any fines assessed by the alarm administrator become 180 days or more past due.

(b) An alarm user may appeal the suspension of an alarm permit in accordance with the provision for appeals set forth in this article.

(c) The alarm administrator will notify the alarm user in writing after the alarm permit has been suspended and the reason for the suspension. The notice of suspension may also include the amount of the fine for each false alarm, if applicable.

(Code 2005, § 54-128; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-129. Appeals.

(a) If the alarm administrator assesses a fine or denies the issuance, renewal or reinstatement of an alarm permit, the alarm administrator shall send written notice of the action and a statement of the right to an appeal to the affected applicant or alarm user and the alarm installation company and/or monitoring company.

(b) The alarm user, alarm installation company or monitoring company may appeal an assessment of a fine or the suspension of an alarm permit to the alarm administrator by setting forth in writing the reasons for the appeal within ten business days after receipt of the fine or notice of suspension and by submitting a certified check in the amount set by resolution and printed in Appendix D to this Code ~~of $25.00~~ payable to the city to cover the cost of processing the appeal. The payment for the cost of the appeal will not be refunded.

(c) The alarm user, alarm installation company or monitoring company may appeal the decision of the alarm administrator by requesting, within ten business days from the date of the decision, that the alarm administrator forward the appeal to the city manager. The alarm administrator will, within five business days of such a request, provide the city manager with notice of the appeal. The city manager shall, within a period of 30 days from receipt of the notice of appeal from the alarm administrator, hear the appeal and the facts as presented by the appellant and the alarm administrator, affording both parties a reasonable and equal amount of time for the presentation of facts, evidence, and the questioning and cross examination of witnesses. Within ten business days of the hearing, the city manager shall render a final, written decision affirming or reversing the decision of the alarm administrator. Such written decision shall be filed with the city secretary.

(d) Filing of a notice of appeal shall stay the action by the alarm administrator suspending an alarm permit or requiring payment of a fine, until the city manager has rendered a decision. If a request for an appeal to the city manager is not made within the required ten business day period, the action of the alarm administrator is final.

(e) The alarm administrator may adjust the count of false alarms based on:

(1) Evidence that a false alarm was caused by an act of God;

(2) Evidence that a false alarm was caused by action of the telephone company;

(3) Evidence that a false alarm was caused by a power outage lasting longer than four hours;

(4) Evidence that the alarm dispatch request was not a false alarm; and/or

(5) Evidence that a city emergency service response was not completed in a timely fashion.

(f) With respect to fines of an alarm installation company or monitoring company the alarm administrator may take into consideration whether the alarm company or monitoring company has engaged in a consistent pattern of violations.

(Code 2005, § 54-129; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-130. Reinstatement of suspended permit.

(a) A person whose alarm permit has been suspended may, at the discretion of the alarm administrator, have the alarm permit reinstated by the alarm administrator if the person:

(1) Submits a new application and pays a reinstatement fee (see Appendix D to this Code ~~C, Fines and Fees~~);

(2) Pays, or otherwise resolves, all outstanding citations and fines; and

(3) Submits a certification from an alarm installation company, stating that the alarm system has been inspected and repaired (if necessary) by the alarm installation company.

(b) In addition, the alarm administrator may require one or more of the following as a condition to reinstatement:

(1) Proof that an employee of the alarm installation company or monitoring company caused the false alarm;

(2) A certificate showing that the alarm user has successfully completed the alarm user awareness class as provided under section 54-126(e);

(3) Upgrade the alarm control panel to meet SIA Control Panel Standard CP-01;

(4) A written statement from an independent inspector that the alarm system has been inspected and is in good working order;

(5) Confirmation that all motion detectors are "dual technology" type;

(6) Confirmation that the alarm system requires two independent zones to trigger before transmitting an alarm signal to the monitoring company;

(7) Confirmation that the alarm system requires two independent detectors to trigger before transmitting an alarm signal to the monitoring company;

(8) Certification that the monitoring company will not make an alarm dispatch request unless the need for a city emergency service is confirmed by a listen-in device;

(9) Certification that the monitoring company will not request an alarm dispatch unless the need for a city emergency service response is confirmed by a camera device; or

(10) Certification that the monitoring company will not make an alarm dispatch request unless the need for a city emergency service response is confirmed by a person at the alarm site.

(Code 2005, § 54-130; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-131. Confidentiality.

In the interest of public safety, all information contained in and gathered through the alarm permit applications and applications for appeals shall be held in confidence by all employees or representatives of the city and by any third-party administrator or employees of a third-party administrator with access to such information, to the extent permitted by law.

(Code 2005, § 54-131; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-132. Governmental immunity.

An alarm permit is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, for a city emergency response. Any and all liability and consequential damage resulting from the city's failure or inability to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that a city emergency response may be influenced by factors such as the availability of city emergency service units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

Sec. 54-133. ~~Appendix A.~~ Installer false alarm prevention program checklist.

Yes	No		
		1.	If a duress feature was installed, I thoroughly explained it and I did not program the system so that the duress code is only one digit different than the normal code.
		2.	I checked that the control panel has been programmed so that:
		a.	It will not transmit more than one alarm signal from the same zone until manually restored at the premises;
		b.	It will delay at least 15 seconds before initiating dialing on intrusion alarm signals;
		c.	It has adequate delay time on entry/exit doors (delay of 45 seconds or more is recommended); and
		d.	A cancel code can be entered by the customer to cancel accidental alarms.
		3.	I checked that police and fire panic buttons cause a siren or speaker to sound and that medical panic buttons cause an audible signal.
		4.	I checked that the arming station(s) emit sound to inform occupants when an entry/exit door sensor has been triggered.
		5.	I installed and tested standby/backup power.
		6.	I reviewed the "Customer False Alarm Prevention Checklist" with the customer.
		7.	I determined whether the customer had special telephone features, such as call waiting or DSL, and took appropriate steps to allow proper control panel dialing and monitoring center verification. (Such as *70 for call waiting, etc.)
		8.	I checked the control panel was properly grounded to the manufacturer's specifications.
		9.	I checked that all door and window contacts were properly selected, installed and tested. I considered loose fitting doors and windows, whether wide gap contacts were needed, and steel doors and windows. I followed the manufacturer's installation instructions.
		10.	I checked all glass breakage sensors were properly selected, installed and tested. I gave consideration to pets, on-site noises and the general environment. I followed the manufacturer's installation instructions.
		11.	All motion type detectors were properly selected, properly installed and tested. I gave consideration to pets, sunlight, other heat sources, and harsh environments. I followed the manufacturer's installation instructions.
Please explain if you answered "No" to any of the above items:			

Installation Technician

Printed Name	Signature
Date	

Sec. 54-134. ~~Appendix B.~~ Customer false alarm prevention checklist.

Yes	No		
		1.	I have been made aware of the applicable alarm ordinance and I will comply with its requirements.
		2.	I understand it is my responsibility to prevent false alarms, and I understand it is critical and my responsibility to ensure that all users of the system (such as residents, employees, guests, cleaning people, and repair people) are trained on the proper use of the system.
		3.	I have been trained in the proper operation of the system and have been given an operating sheet summarizing the proper use of the system, as well as the security system operating manual.
		4.	I know how to turn off motion detectors while leaving other sensors on. (Residential Only)
		5.	I know how to test the system, including the communication link with the monitoring center.
		6.	I understand that my entry time is ____ and my exit time is ____.
		7.	I have the alarm company phone number to request repair service or to ask questions about the alarm system.
		8.	I know how to cancel an accidental alarm activation and have the system cancellation code or code word.
		9.	I understand that indoor pets can cause false alarms and I will contact my alarm company to adjust the system if I acquire any additional indoor pets.
		10.	I understand that the main control panel and transformer are located in _____.
		11.	I have received an alarm sheet, which describes how the alarm company will communicate with me in the event of various alarm signals.
		12.	I understand the importance of:

			Keeping my emergency contact information updated and I know how to do this;
			Immediately advising the alarm company if my phone number changes (including area code changes); and
			Immediately advising the alarm company of any other changes to my telephone service such as call waiting or a fax line.
		13.	I will advise the alarm company if I do any remodeling (such as painting, moving walls, doors or windows).
		14.	I understand that certain building defects (such as loose fitting doors or windows, rodents, inadequate power, and roof leaks) can cause false alarms. I will correct these defects as I become aware of them.
		15.	The alarm company has given me written false alarm prevention techniques to help me prevent false alarms.

Comments:	
ALARM COMPANY CUSTOMER	
Print Name(s)	By:
Signature(s)	Date

(Code 2005, § 54-132; Ord. No. 2008-36, § 1, 10-20-2008)

Secs. 54-135--54-189. Reserved.

ARTICLE VI. SEX OFFENDERS

Sec. 54-190. 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:

Child or *children* means a person under 18 years of age.

Childcare facility means a facility providing for the supervision, care, or education of children, including, but not limited to, a day care, Montessori School, day camp, Mother's Day Out Program, a facility providing after school care; a church or other place of worship that provides children's programs or activities, childcare, or nursery services, even if only incidental to religious worship; or a public or private park facility designed and utilized for organized children's activities.

Penal institution shall have the same meaning as that found in V.T.C.A., Code of Criminal Procedure art. 62.001(3).

Reside or *residing* means a temporary or permanent property or possessory interest in a residence, including a stay as an overnight guest.

Residence means a house, apartment or other dwelling in which a person lives.

Reportable conviction or adjudication shall have the same meaning as that found in V.T.C.A., Code of Criminal Procedure art. 62.001(5).

School means a public or nonpublic elementary or secondary school.

Sex offender means a person with a reportable conviction or adjudication who is required to register with the state department of public safety under the provisions of V.T.C.A., Code of Criminal Procedure ch. 62.

Sexual offense means those offenses requiring registration with the state department of public safety under the provisions of V.T.C.A., Code of Criminal Procedure ch. 62.

(Code 2005, § 54-190; Ord. No. 2006-08, § 2, 6-26-2006)

Sec. 54-191. Residency restrictions; childcare facilities and schools.

It shall be unlawful for a sex offender with a reportable conviction or adjudication for a sexual offense in which the victim was a child to reside within 2,000 feet of a school or childcare facility.

(Code 2005, § 54-191; Ord. No. 2006-08, § 2, 6-26-2006)

Sec. 54-192. Exemptions.

The following persons shall be exempt from the provisions of this article:

(1) A sex offender who established a residence located within 2,000 feet of a school or childcare facility prior to the effective date of the ordinance from which this article is derived.

(2) A sex offender residing within 2,000 feet of a school or childcare facility constructed after the effective date of the ordinance from which this article is derived.

(3) A sex offender incarcerated at a penal institution located within 2,000 feet of a school or childcare facility.

(4) A sex offender who is under 17 years of age or a ward under a guardianship residing within 2,000 feet of a school or childcare facility and residing with a person responsible for the person's care and supervision.

(Code 2005, § 54-192; Ord. No. 2006-08, § 2, 6-26-2006; Ord. No. 2008-44, § 2, 12-15-2008)

Sec. 54-193. Calculation of distance between residence and childcare facility or school.

For the purposes of this article, the distance between a residence and a school or childcare facility shall be measured from the property line of the school or childcare facility to the property line of the residence.

(Code 2005, § 54-193; Ord. No. 2006-08, § 2, 6-26-2006)

Sec. 54-194. Reserved.

ARTICLE VII. ILLICIT SYNTHETIC DRUGS

Sec. 54-195. 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:

Herbal incense means aromatic plant material, whether referred to as potpourri or otherwise, that is distributed in a loose, leafy, powder or granular form or in a compressed block or blocks

that can be crushed to result in a powder or granular form, and can be placed into a pipe, cigarette paper, or other drug paraphernalia for purposes of ingestion by smoking, inhaling or other method, regardless of how the substance is labeled or marketed, including, but not limited to, whether or not such product is labeled as not for human consumption.

Illicit synthetic drug means:

(1) Any vegetative material, or herbal or plant material, however constituted, designed, intended, marketed, manufactured, or engineered, that contains any quantity of a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product.

(2) Any vegetative material, or herbal or plant material, with packaging or labeling that indicates, suggests, or implies that the substance is a substitute for or otherwise mimics the pharmacological effects of marihuana ("marijuana"), a controlled substance, or a controlled substance analogue as defined by V.T.C.A., Health and Safety Code § 481.002.

(3) Any vegetative material, or herbal or plant material, offered for sale or sold with verbal or written representations regarding the purpose, methods, use, or effect of the substance that indicates, suggests, or implies that the substance mimics the pharmacological effects of marihuana ("marijuana"), a controlled substance, or a controlled substance analogue as defined by V.T.C.A., Health and Safety Code § 481.002.

(Code 2005, § 54-195; Ord. No. 2014-37, § 2(54-195), 1-5-2015)

Sec. 54-196. Prohibition of illicit synthetic drug.

It shall be unlawful for any person to possess, provide, sell, barter, produce, manufacture, distribute, or to offer, display, market or advertise for sale, or purchase with the intent to provide, sell barter, produce, manufacture, or distribute, or to offer, display, market or advertise for sale any illicit synthetic drug.

(Code 2005, § 54-196; Ord. No. 2014-37, § 2(54-196), 1-5-2015)

Sec. 54-197. Failure to publicly display or label herbal incense.

(a) Herbal incense offered for sale to the public must be publicly displayed at all times through actual or representative packaging.

(b) All herbal incense offered for sale to the public must include a label listing each active ingredient.

(Code 2005, § 54-197; Ord. No. 2014-37, § 2(54-197), 1-5-2015)

Sec. 54-198. Penalty.

(a) Any violation of section 54-196 is a misdemeanor~~ punishable upon conviction by a fine not to exceed $2,000.00~~. Each separate package, container, or other separate unit containing an illicit synthetic drug shall constitute a separate and distinct offense.

(b) Any violation of section 54-197 is a misdemeanor~~ punishable upon conviction by a fine not to exceed $2,000.00~~. Each separate package, container, or other separate unit containing any herbal incense shall constitute a separate and distinct offense.

(c) Prosecution or conviction under this article is cumulative of and shall never be a bar to any other civil or administrative remedy provided or allowed in this article or by law.

(Code 2005, § 54-198; Ord. No. 2014-37, § 2(54-198), 1-5-2015)

Sec. 54-199. Affirmative defenses.

(a) It is a defense to prosecution under the provisions of this article that the person possessed the illicit synthetic drug under the lawful supervision of an authorized law enforcement officer to enforce or ensure compliance with this article.

(b) It is a defense to prosecution that a violation of this article is expressly permitted by state or federal law.

(Code 2005, § 54-199; Ord. No. 2014-37, § 2(54-199), 1-5-2015)

Sec. 54-200. Seizure.

Any product or substance possessed, provided, sold, bartered, produced, manufactured, distributed, or offered, displayed, marketed or advertised for sale or purchased with the intent to provide, sell, barter, produce, manufacture, or distribute, or to offer, display, market or advertise for sale, in violation of any provision of this article, may be seized by any peace officer. Such product or substance may be destroyed as authorized by state law after its use for evidentiary purposes is no longer required.

(Code 2005, § 54-200; Ord. No. 2014-37, § 2(54-200), 1-5-2015)

Chapters 55--57

RESERVED

Chapter 58

PARKS AND RECREATION*

***State law reference**—Parks and recreation, V.T.C.A., Local Government Code § 331.001 et seq.

ARTICLE I. IN GENERAL

Sec. 58-1. Declaration of policy.

It is hereby declared to be the policy of the city to acquire, maintain and facilitate the use of properties to be utilized as public parks, squares and ways and other appropriate public facilities, giving due recognition to the social ideals of sports, recreation, the arts and the appreciation of beauty and ability.

(Code 1974, § 13-1; Code 1994, § 58-1; Code 2005, § 58-1)

Sec. 58-2. Possession or consumption of alcoholic beverages at public swimming pools prohibited.

It shall be unlawful for any person to possess or consume alcoholic beverages within the fenced boundaries of all swimming pools owned and/or operated by the city.

(Code 1974, § 13-56; Code 1994, § 58-2; Code 2005, § 58-2)

Secs. 58-3--58-22. Reserved.

ARTICLE II. PARKS*

***State law reference**—Park to be open for public use under rules prescribed by local governing authority, V.T.C.A., Local Government Code § 331.007.

DIVISION 1. GENERALLY

Sec. 58-23. 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:

Park means any property dedicated or used as a park or for public park purposes or that may be dedicated or used as a park or for public park purposes within the city, and which park includes land, the title to which is in the city.

(Code 1974, § 13-41; Code 1994, § 58-26; Code 2005, § 58-23)

Secs. 58-24--58-49. Reserved.

DIVISION 2. PERMITS

Sec. 58-50. Required for certain use of parks and recreational areas.

(a) A permit shall be obtained for the following activities:

(1) Use of any park or recreation facility of the city for functions or gatherings of a group of persons numbering more than 25;

(2) Use of the park after posted hours;

(3) Camping in areas designated by the director;

(4) Building of fires in areas not designated for such activity or not in receptacles designated for fires;

(5) Erection of signs; and

(6) Solicitation or peddling of any nature.

(b) The form of permit required by this section and reasonable regulations concerning its acquisition will be determined by the director of parks and recreation and approved by the city council. All fees are set by resolution and printed in Appendix D to this Code.

(Code 1974, §§ 13-42(a), 13-43, 13-47; Code 1994, § 58-36; Code 2005, § 58-50)

Sec. 58-51. Application.

The following information shall be provided on the application for a permit under this division:

(1) The purpose and nature of the function or event;

(2) The date, time and place where the function or event is scheduled; and

(3) The estimated number of persons to be present.

(Code 1974, § 13-42(a); Code 1994, § 58-37; Code 2005, § 58-51)

Sec. 58-52. Approval.

All permits must be approved and signed by the director of parks and recreation and reviewed by city officials as deemed necessary.

(Code 1974, § 13-42(b); Code 1994, § 58-38; Code 2005, § 58-52)

Secs. 58-53--58-77. Reserved.

DIVISION 3. USE REGULATIONS

Sec. 58-78. Regulations for specific park areas.

The director of parks and recreation shall keep and maintain a listing of specific rules and regulations that apply to specific parks.

(Code 1974, § 13-58; Code 1994, § 58-51; Code 2005, § 58-78)

Sec. 58-79. Compliance with division.

Compliance with the provisions of this division is a condition to the use of the parks of the city.

(Code 1974, § 13-59; Code 1994, § 58-52; Code 2005, § 58-79)

Sec. 58-80. Park hours.

It shall be unlawful for any person to remain in a park after posted hours of use without a permit. Permits for the use of parks after posted hours may be obtained from the director of parks and recreation.

(Code 1974, § 13-43; Code 1994, § 58-53; Code 2005, § 58-80)

Sec. 58-81. Injuring, defacing, removing, etc., property generally.

It shall be unlawful for any person to remove, destroy, mutilate, mark, disfigure, injure or deface any structure, monument, statue, fountain, wall, fence, railing, vehicle, bench or other property in any park. It shall likewise be unlawful for any person to destroy, damage, mark, cut, break or disfigure any tree, shrubbery, flower, or any other plant in or on any park.

(Code 1974, § 13-44; Code 1994, § 58-54; Code 2005, § 58-81)

State law reference—Criminal mischief, V.T.C.A., Penal Code § 28.03.

Sec. 58-82. Climbing trees; walking, standing or sitting on fountains, railings, etc.

It shall be unlawful for any person to climb any tree in a park or to walk, stand or sit upon any fountain, railing, flowerbed, monument, vase, or fence or upon any other property in a park which is not designated for or customarily used for such purposes.

(Code 1974, § 13-45; Code 1994, § 58-55; Code 2005, § 58-82)

Sec. 58-83. Littering.

It shall be unlawful for any person to litter any park or park waters. The term "littering," as used in this section, means the discarding of glass, paper, boxes, cans, dirt, rubbish, waste, garbage, and other forms of refuse in any place other than officially designated receptacles. Where receptacles are not so provided, all such rubbish or refuse shall be carried away from the park by the person responsible for its presence.

(Code 1974, § 13-46; Code 1994, § 58-56; Code 2005, § 58-83)

State law reference—Litter, V.T.C.A., Health and Safety Code ch. 365.

Sec. 58-84. Hunting, molesting, etc., animals, reptiles or birds.

It shall be unlawful for any person to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot, injure or throw any stone, object or missile of any kind at any animal, reptile or bird in a park.

(Code 1974, § 13-47; Code 1994, § 58-57; Code 2005, § 58-84)

Sec. 58-85. Possession or discharge of weapons prohibited.

It shall be unlawful for any person, other than a person licensed to carry a concealed handgun under V.T.C.A., Government Code ch. 411, subch. H, to carry or possess any firearm of any description, air rifle, spring gun, bow and arrow, sling, or any other form of weapon potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device within a park. Discharging any weapons within park areas or into park areas from beyond park boundaries is unlawful and strictly prohibited.

(Code 1974, § 13-47; Code 1994, § 58-58; Code 2005, § 58-85; Ord. No. 2013-21, § 2, 7-1-2013)

Sec. 58-86. Boats.

It shall be unlawful to place or operate any boat, raft or other watercraft, whether motor-powered or nonmotor-powered, upon any waters in any park, unless such waters are specifically designated for the use of such craft.

(Code 1974, § 13-48; Code 1994, § 58-59; Code 2005, § 58-86)

Sec. 58-87. Swimming, bathing or wading.

No person shall swim, bathe or wade in any body of water located on park property, unless specifically designated otherwise by signs or regulations applicable to the area.

(Code 1974, § 13-49; Code 1994, § 58-60; Code 2005, § 58-87)

Sec. 58-88. Picnicking.

Picnicking is allowed on park property except where specifically designated as not permitted by signs or regulations applicable to the area.

(Code 1974, § 13-50; Code 1994, § 58-61; Code 2005, § 58-88)

Sec. 58-89. Camping.

A permit from the director of parks and recreation for camping on park property is required.

(Code 1974, § 13-51; Code 1994, § 58-62; Code 2005, § 58-89)

Sec. 58-90. Fires.

(a) It shall be unlawful for any person to build or attempt to build a fire in a park in anything other than a specifically designated receptacle without a permit. Permits for the building of fires in areas not permitted or designated may be obtained from the director of parks and recreation pursuant to section 58-51.

(b) It is unlawful for any person to drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars within any park.

(Code 1974, § 13-52; Code 1994, § 58-63; Code 2005, § 58-90)

Sec. 58-91. Solicitation.

It shall be unlawful for any person to be or act as or ply the vocation of a solicitor, agent, peddler, or any person selling goods, wares and merchandise in any park without a permit. Permits may be obtained from the director of parks and recreation pursuant to section 58-51.

(Code 1974, § 13-53; Code 1994, § 58-64; Code 2005, § 58-91)

Sec. 58-92. Operation of vehicles on park property.

It shall be unlawful for any person to operate or cause to be operated a motorized vehicle on park property except on roadways and other specifically designated areas. This section does not apply to vehicles used for emergency, police, and parks and recreation purposes.

(Code 1974, § 13-54; Code 1994, § 58-65; Code 2005, § 58-92)

Sec. 58-93. Horses and other large animals.

It shall be unlawful for any person to ride, lead or otherwise allow a horse, whether by action or inaction, upon any area of a park, except along and upon areas specifically designated therefor. Other large animals are prohibited in the area of a park unless a permit is obtained pursuant to section 58-51. Dogs and cats, if household pets are appropriately licensed and supervised, are permitted on park property, except in areas specifically designated otherwise. Service animals are permitted wherever their owner or trainer is permitted.

(Code 1974, § 13-55; Code 1994, § 58-66; Code 2005, § 58-93)

Sec. 58-94. Possession or consumption of alcoholic beverages prohibited at certain athletic events.

It shall be unlawful for any person to possess or consume alcoholic beverages in a park while attending any athletic event or practice session specifically organized for the participation of minors.

(Code 1974, § 13-56; Code 1994, § 58-67; Code 2005, § 58-94)

Sec. 58-95. Glass bottles, containers prohibited.

(a) It shall be unlawful for any person to carry into any public park of the city, or have in his possession while within any such park, any glass beverage bottle or container.

(b) Beverages of any kind in glass containers are prohibited on park property.

(Code 1974, § 13-57; Code 1994, § 58-68; Code 2005, § 58-95)

Sec. 58-96. Exemptions from division.

The provisions of this division shall not be construed to apply to personnel while they are engaged in authorized maintenance or construction upon park property.

(Code 1974, § 13-60; Code 1994, § 58-69; Code 2005, § 58-96)

Chapters 59--61

RESERVED

Chapter 62

SEXUALLY ORIENTED BUSINESSES*

***State law reference—**Municipal authority to regulate sexually oriented businesses, V.T.C.A., Local Government Code ch. 243.

ARTICLE I. IN GENERAL

Sec. 62-1. Purpose.

(a) The purpose of this chapter is to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the city, and to establish a system of reasonable and uniform regulation of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny distributors and exhibitors of sexually oriented entertainment access to their intended market. The prohibition of the promotion of obscene material (not protected by the First Amendment) is enforceable through separate criminal sanctions under the state penal code.

(b) This chapter is promulgated pursuant to V.T.C.A., Local Government Code § 243.001 et seq.

(Code 1994, § 60-1; Code 2005, § 62-1; Ord. No. 98-19, § 2, 7-6-1998)

Secs. 62-2--62-20. Reserved.

ARTICLE II. REGULATIONS*

***State law reference—**Municipal authority to regulate sexually oriented businesses, V.T.C.A., Local Government Code § 243.001 et seq.

Sec. 62-21. 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:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, 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 videostore* 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, or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment not subject to regulation in accordance with this article and which regularly features:

(1) Persons who appear in a state of nudity;

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to 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 and are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult tanning salon means a commercial establishment which provides facilities for tanning the human skin, such as tanning beds, suntan lights, or other similar facilities, and regularly features for the entertainment of its clientele:

(1) Persons who appear in a state of nudity; or

(2) Live performances or style shows of lingerie performed by persons who appear in a state of nudity or which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

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."

Applicant means a person who must apply for a license by this article.

Chief of police means the chief of police of the city or his designated agent.

Childcare facility means a building used as a day nursery, children's boarding home, child-placing agency or other place for the care or custody of children under 15 years of age licensed by the state pursuant to V.T.C.A., Human Resources Code § 42.041 et seq.

Church or place of religious worship means a building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or for propagating a particular form of belief.

Dwelling means a house, duplex, apartment, townhouse, condominium, mobile home or any other building used for residential purposes.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie, or to privately perform a striptease for another person for a fee, tip, or other consideration.

Escort agency means a business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business;

(4) The relocation of any sexually oriented business; or

(5) A location and place of business.

Hospital means a building used to provide health services for human inpatient medical care for the sick or injured, licensed pursuant to the Texas Hospital Licensing Law (V.T.C.A., Health and Safety Code § 241.001 et seq.) or operated by an agency of the federal government, or a convalescent facility licensed pursuant to V.T.C.A., Health and Safety Code § 242.001 et seq.

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 on a person licensed under this article.

Nude modeling 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 genitalia, pubic region or female breasts; or

(2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitalia, pubic region or areola of the female breast.

This includes material that is painted or applied to the body, such as paint, liquid latex or employment of any device or covering intended to give the appearance of or simulate the parts of the body listed in subsection (1) or (2) of this definition. This definition shall not include a mother in the act of nursing her child.

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.

Park means a tract of land maintained by the federal, state or local government or by a private homeowners' association for the recreation and enjoyment by the general public or members of the homeowners' association.

~~*Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.~~

Public building means a building used by federal, state or local government and open to the general public.

School means a building where persons regularly assemble for the purpose of instruction or education, together with the playgrounds, dormitories, stadiums and other structures or grounds used in conjunction therewith.

Seminude or *seminudity* means a state of dress in which clothing covers no more than the genitals, pubic region, and areola 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 physical contact in the form of wrestling or tumbling between persons of the opposite sex or other activities between male and female persons and/or persons of the same sex, when one or more of the persons is in a state of nudity or seminudity.

Sexually oriented business means an adult arcade, adult bookstore or adult videostore, adult cabaret, adult motel, adult motion picture theater, adult tanning salon, adult theater, escort agency, nude modeling studio, sexual encounter center, or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Specified anatomical areas means human genitals in a state of sexual arousal.

Specified sexual activities means and includes any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or 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 subsection (1) through (3) of this definition.

Transfer of ownership or control of a sexually oriented business includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the person possessing the ownership or control.

(Code 1994, § 60-26; Code 2005, § 62-21; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-22. Classification.

(a) Sexually oriented businesses include, but are not limited to, the following:

(1) Adult arcades;

(2) Adult bookstores or adult videostores;

(3) Adult cabarets;

(4) Adult motels;

(5) Adult motion picture theaters;

(6) Adult tanning salons;

(7) Adult theaters;

(8) Escort agencies;

(9) Nude modeling studios; and

(10) Sexual encounter centers.

(b) The determination of what constitutes a sexually oriented business shall be made by the chief of police and shall be appealable to city council.

(Code 1994, § 60-27; Code 2005, § 62-22; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-23. License required; duties of applicant; location of business.

(a) The following are required to be licensed:

(1) All owners, clerks, and employees of a sexually oriented business are required to be licensed to operate or work in said business. The term "employees" includes persons who work in a sexually oriented business for gratuities or other compensation and who may or may not earn wages or a salary;

(2) All corporations or directors of corporations of any sexually oriented business and their employees;

(3) All partners in any sexually oriented business and their employees; and

(4) All executive officers, corporations, partners, and lienholders and their employees who are associated with any sexually oriented business requiring a license under this article.

(b) No person shall work for any sexually oriented business without having, at all times while at work, a valid current state driver's license or a state-issued identification card which depicts a picture of the person and indicates the person's date of birth.

(c) All potential employees and/or clerks of sexually oriented businesses shall comply with this article, and shall not be in violation of this article before being issued an identification card to work at the business. Application forms shall be provided by the chief of police and the determination of compliance shall be made by the chief of police within 60 days from time of application.

(d) An application for a sexually oriented business license shall be made on a form provided by the chief of police. The application shall 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 shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. All location requirements shall be approved by the chief of police within 60 days from the time the application is filed.

(e) The applicant for a sexually oriented business license shall be qualified according to the provisions of this article.

(f) If a person who wishes to operate a sexually oriented business is an individual, such person shall 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 an interest in the business shall sign the application for a license as applicant and shall be considered a licensee if a license is granted.

(g) The fact that a person possesses any other valid license required by law does not exempt that person from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses another business license shall comply with the requirements and provisions of this article, as well as the requirements and provisions of the laws concerning the other license.

(h) Each applicant shall attach two copies of a recent photo to the application form.

(i) The application shall be accompanied by the following:

(1) Payment of the application fee in full;

(2) If the establishment is a state corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(3) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(4) If the establishment is a limited partnership formed under the laws of the state, a certified copy of the certificate of limited partnership, together with all amendments thereto; and

(5) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto.

(j) Each applicant for a sexually oriented business license shall, upon the filing of the application and payment of the filing fee, place signs (at least 24 inches by 36 inches in size) which provide notification and information specifically stating "SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION PENDING" and the date on which the application was filed. All lettering on the signs must be at least 1 1/2 inches by two inches in size for each letter on the sign. The signs must be of sufficient quantities to be placed upon the property so as to identify it as being subject to a proposed sexually oriented business license. It shall be the duty of each applicant as to each particular application to erect said signs along all the property's public road or highway frontage so as to be clearly visible from the public road or highway. If a property does not have a public road or highway frontage, then signs shall be placed upon the property in a manner to maximize the view of said sign when approached from the customary means of approaching the property. One sign shall be erected for each 300-foot increment of each public road or highway frontage on said existing property, or any part thereof. Said signs shall be erected not less than seven days after the filing of the application for the sexually oriented business license and remain erected until the application has been approved by the chief of police.

(k) Every applicant for a sexually oriented business license shall give notice of the application by publication at the applicant's expense in two consecutive issues of a newspaper of general circulation in the city. The notice shall be printed in ten-point boldface type and shall include the following:

(1) The fact that a sexually oriented business license has been applied for;

(2) The exact location of the place of business for which the permit is sought;

(3) The names of each owner of the business and, if the business is operated under an assumed name, the trade name, together with the names of all owners; and

(4) If the applicant is a corporation, the names and titles of all officers.

Such notice shall be printed not less than 14 days after the application is filed with the chief of police.

(l) An applicant for a renewal permit on an existing business at the time of the passage of the ordinance from which this article is derived is not required to publish notice or meet the posting requirements of subsections (j) and (k) of this section.

(m) The applicant for a sexually oriented business permit shall certify that:

(1) The proposed sexually oriented business will be located a minimum of 1,500 feet from the following:

a. A childcare facility;

b. A church or place of religious worship;

c. A dwelling;

d. A hospital;

e. A public building;

f. A park;

g. A school;

h. Safety routes for children; and

(2) The proposed sexually oriented business will be located a minimum of 1,500 feet from any other sexually oriented business.

For the purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of the proposed sexually oriented business to the nearest portion of the property line of the facility described in subsections (m)(1) and (2) of this section.

(Code 1994, § 60-28; Code 2005, § 62-23; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-24. Issuance of license.

(a) The chief of police, upon authorization by the city council, shall approve the issuance of a license to an applicant within 60 days after receipt of an application unless the council 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 the 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. The city finance director shall make this determination and report the director's findings to the chief of police within 60 days from the time the application is filed;

(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. The chief of police shall make this determination within 60 days from the time the application is filed;

(5) The premises to be used for the sexually oriented business have not been approved by the chief of police as being in compliance with the location requirements or any other requirements of this article. Reports of compliance or noncompliance with this article shall be completed by the chief of police within 60 days from the time the application is filed;

(6) The license fee required by this article has not been paid;

(7) An applicant has failed to comply with the requirements of section 62-23(i), (j), or (k) unless exempt under section 62-23(l);

(8) 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;

(9) An applicant or the proposed establishment is in violation of, or is not in compliance with, section 62-26, 62-27 or 62-32 through 62-41;

(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 a 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;

5. 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 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.

(b) 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 (a)(10) of this section may qualify for a sexually oriented business license only when the time period required by subsection (a)(10)b of this section 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.

(e) It shall be the duty of the chief of police to report to the applicant the findings under subsection (a) of this section within 60 days from the time the application is filed.

(f) No license shall be issued if the applicant is in violation of any health or safety statute of the state or any health or safety ordinance of the city.

(g) Any sexually oriented business which is in operation on the effective date of the ordinance from which this article is derived shall have 60 days within which to file an application with the chief of police. During the 60-day period described in subsection (a) of this section, said applicant who was in business on the effective date of the ordinance from which this article is derived shall not otherwise be regulated by this article.

(h) If the chief of police fails to act upon an application within the 60-day period specified in this article, the applicant shall be entitled to the issuance of a temporary license upon written demand thereto to the chief of police by the applicant. Such a temporary license shall be valid only until the third day after the chief of police issues the requested license or denies issuance of the same. Denial of a license shall be appealable as set out in section 62-31.

(Code 1994, § 60-29; Code 2005, § 62-24; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-25. Fees.

(a) The annual fee for a sexually oriented business license is set by resolution and printed in Appendix D to this Code ~~$1,500.00~~.

(b) Each employee of a sexually oriented business shall pay an ~~$150.00~~ annual fee with each application as set by resolution and printed in Appendix D to this Code.

(c) No portion of any fee collected under this article shall be returned after a permit application has been filed.

(Code 1994, § 60-30; Code 2005, § 62-25; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-26. Violations.

(a) It shall be a violation of this article for any person to own or operate a sexually oriented business at a location inside the corporate limits of the city unless the sexually oriented business possesses and has posted a valid license issued by the chief of police in accordance with the terms of this article.

(b) It shall be a violation of this article for any person to be employed at or work at a sexually oriented business at a location inside the corporate limits of the city unless the person shall possess while on the premises of a sexually oriented business a valid license issued by the chief of police in accordance with the terms of this article. This includes individuals who work for gratuities or other compensation but who may or may not earn wages or a salary.

(c) It shall be a violation of this article for any person to employ, in a sexually oriented business at a location inside the corporate limits of the city, a person under the age of 18 years. This includes individuals who work for gratuities or other compensation but who may or may not earn wages or a salary.

(d) It shall be a violation of this article for a person under the age of 18 years to appear in a state of nudity in or on the premises of a sexually oriented business. 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.

(e) It shall be a violation of this article for a person to knowingly allow a person under the age of 18 years to appear in a state of nudity in or on the premises of a sexually oriented business. 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.

(f) It shall be a violation of this article for a person to appear in a state of nudity in an area of a sexually oriented business which can be viewed from a public right-of-way.

(g) It shall be a violation of this article for an employee of a sexually oriented business who appears in a state of nudity or seminudity to fondle or caress any patron or clientele of the sexually oriented business, and it shall be unlawful for any patron or clientele of any sexually oriented business to fondle or caress any employee of a sexually oriented business who appears in a state of nudity or seminudity.

(h) It shall be a violation of this article for an employee or a customer of a sexually oriented business within the city to appear in a state of total nudity.

(Code 1994, § 60-31; Code 2005, § 62-26; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-27. Inspection.

(a) An applicant or licensee shall permit representatives of the city police 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 his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the city police department at any time it is occupied or open for business.

(c) The provisions of this section shall not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitat.

(Code 1994, § 60-32; Code 2005, § 62-27; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-28. 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 62-23.

(Code 1994, § 60-33; Code 2005, § 62-28; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-29. Suspension.

The chief of police shall suspend a license for a period not to exceed 30 days if the chief of police determines that a licensee has:

(1) Violated or is not in compliance with any portion 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; or

(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 1994, § 60-34; Code 2005, § 62-29; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-30. Revocation.

(a) The chief of police shall revoke a license if a cause of suspension in section 62-29 occurs and the license has been suspended within the preceding 12 months.

(b) The chief of police shall revoke a license if the chief of police determines that:

(1) A licensee gave false or misleading information in the material submitted to the chief of police 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 62-23(a)(10)a for which the time period required in section 62-23(a)(10)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 62-23(a)(10)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;

(8) A licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the sexually oriented business; or

(9) A licensee has violated a health and/or safety statute or ordinance as listed in ~~section 62-23(f)~~ this Code.

(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 shall not apply to adult motels as a 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 chief of police 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 chief of police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. 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 62-23(a)(10)b has elapsed.

(Code 1994, § 60-35; Code 2005, § 62-30; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-31. Appeal.

If the city council denies the issuance of a license, or the chief of police suspends or revokes a license, the chief of police shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action, a statement of facts with supporting documentation which formed the basis for the decision, and notice of the right to an appeal. The aggrieved party may appeal a decision of the chief of police to the city council. An appeal to the city council must be filed with the city secretary within 15 days of receipt of notice of the decision of the chief of police. Filing an appeal to city council stays the chief of police in suspending or revoking a license until the city council makes a final decision. The city council shall, within 15 days after receiving a notice of appeal, grant a hearing of the appeal and shall, within a period of five days, sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police within the time provided herein, the decision of the chief of police is final. The aggrieved party may appeal the decision of city council to a state district court of appropriate jurisdiction. An appeal to

the state district court shall be filed within 30 days after the receipt of notice of the decision of the city council. All decisions of the city council not appealed become final and unappealable within 30 days. The applicant or licensee shall bear the burden of proof before the city council and in district court.

(Code 1994, § 60-36; Code 2005, § 62-31; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-32. 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 1994, § 60-37; Code 2005, § 62-32; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-33. Additional regulations--Adult cabarets.

The following additional regulations apply to adult cabarets:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-33, Friendswood City Code)"

(Code 1994, § 60-38; Code 2005, § 62-33; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-34. Same--Adult motels.

The following additional regulations apply to adult motels:

(1) 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.

(2) 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.

(3) For purposes of subsection (2) of this section, the terms "rent" and "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(Code 1994, § 60-39; Code 2005, § 62-34; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-35. Same--Adult tanning salons.

The following additional regulations apply to adult tanning salons:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-35, Friendswood City Code)"

(Code 1994, § 60-40; Code 2005, § 62-35; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-36. Same--Adult theaters.

The following additional regulations apply to adult theaters:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-36, Friendswood City Code)"

(Code 1994, § 60-41; Code 2005, § 62-36; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-37. Same--Escort agencies.

The following additional regulations apply to escort agencies: 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 of age.

(Code 1994, § 60-42; Code 2005, § 62-37; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-38. Same--Nude modeling studios.

The following additional regulations apply to nude modeling studios:

(1) A nude modeling studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(2) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(3) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(4) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(5) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(6) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-38, Friendswood City Code)"

(Code 1994, § 60-43; Code 2005, § 62-38; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-39. Same--Sexual encounter centers.

The following additional regulations apply to sexual encounter centers:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-39, Friendswood City Code)"

(Code 1994, § 60-44; Code 2005, § 62-39; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-40. Regulations pertaining to 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 persons 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 chief of police may waive the foregoing diagram for renewal applications, if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since 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 chief of police or a designee of the chief of police.

(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 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. Viewing booths must be separated at least 12 inches from the exterior walls of any other view booths by open space.

(6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the 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) For safety purposes, 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 owners and operator and it shall also be the duty of any agents and employees present on 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 he knowingly fails to fulfill that duty.

(c) All locational requirements of this section shall be approved by the chief of police within 60 days from the time the application is filed if in compliance herewith.

(Code 1994, § 60-45; Code 2005, § 62-40; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-41. Display of sexually explicit material to minors.

(a) A person commits an offense if, in a sexually oriented 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 passion 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" shall mean 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 1994, § 60-46; Code 2005, § 62-41; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-42. Defenses.

(a) It shall be a defense to prosecution under section 62-23(a) or 62-38(a), (b) or (c) that a person appearing in a state of nudity or seminudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state, a 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 or seminude person is available for viewing;

b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and

c. Where no more than one nude or seminude model is on the premises at any one time.

(b) It is a defense to prosecution under section 62-26(a) 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 1994, § 60-47; Code 2005, § 62-42; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-43. Enforcement.

(a) A person commits an offense if the person violates any provision or term of this article. An offense for violating this article is a Class A misdemeanor.

(b) The city may sue in district court for an injunction to prohibit the violation of any term or provision of this article.

(Code 1994, § 60-48; Code 2005, § 62-43; Ord. No. 98-19, § 2, 7-6-1998)

Chapters 63--65

RESERVED

Chapter 66

SOLID WASTE*

***State law reference**—Minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code ch. 341; local regulation of sanitation, V.T.C.A., Health and Safety Code ch. 342; Solid Waste Disposal Act, V.T.C.A., Health and Safety Code ch. 361; municipal solid waste, V.T.C.A., Health and Safety Code ch. 363; litter, V.T.C.A., Health and Safety Code ch. 365.

~~Sanitary nuisances, V.T.C.A., Health and Safety Code § 341.013; solid waste disposal, V.T.C.A., Health and Safety Code § 361.001 et seq.; resource recovery, V.T.C.A., Health and Safety Code § 363.001 et seq.~~

ARTICLE I. IN GENERAL

Secs. 66-1--66-18. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL*

***State law reference**—Solid Waste Disposal Act, V.T.C.A., Health and Safety Code § 361.001 et seq.; local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.; municipal solid waste, V.T.C.A., Health and Safety Code § 363.001 et seq.; municipal solid waste, 30 Tex. Admin. Code § 330.1 et seq.; approved containers, 30 Tex. Admin. Code § 330.211~~23~~.

DIVISION 1. GENERALLY

Sec. 66-19. 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:

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.

~~*Garbage* means all animal or vegetable matter, such as waste material and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels and roominghouses and boardinghouses, such definition to include other deleterious substances.~~

Trash or *rubbish* means 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)~~ dry discarded or waste materials, such as feathers, coffee grounds, ashes, tin cans, paper boxes, glass, grass, shrubs, yard cleanings, grass clippings, leaves and tree trimmings~~.

(Code 1974, § 8-1; Code 1994, § 62-26; Code 2005, § 66-19)

Sec. 66-20. Persons authorized to dispose of garbage and trash.

No person except the duly authorized agents and employees of the city shall empty garbage or trash containers, or convey, haul or transport garbage or trash on the streets, alleys and public thoroughfares of the city. Persons may obtain a permit from the city at no charge to transport their own personal garbage and trash outside the city limits and dispose of such garbage, trash and all other refuse in an orderly, safe and sanitary manner.

(Code 1974, § 8-5; Code 1994, § 62-27; Code 2005, § 66-20)

Sec. 66-21. Service charges.

(a) The fee for garbage and trash pickup service shall be billed to the person receiving such service, with the city billing for such service to residential properties, and the city's garbage

contractor billing for such service to nonresidential properties. A fair and reasonable classification of the residences, buildings, and premises in the city for fixing rates for the collection and removal of garbage and trash and the minimum rate per month for such service shall be set by resolution and printed in Appendix D to this Code.

(b) The minimum charges established in subsection (a) of this section and printed in Appendix D to this Code for residential, commercial and business garbage and trash pickups are minimum rates and will be debited to each water meter account during the time such account is active.

(c) The fee for recycled garbage and trash collection and disposal services to residences in the city shall be set by resolution and printed in Appendix D to this Code. Such charge shall be added to the fee otherwise established in this section for regular residential garbage collection service.

(Code 1974, § 8-6; Code 1994, § 62-28; Code 2005, § 66-21; Ord. No. 90-34, § 1, 12-3-1990; Ord. No. 92-21, § 1, 11-16-1992; Ord. No. 93-15, § 1, 11-1-1993; Ord. No. 94-11, § 1, 9-12-1994)

Sec. 66-22. Failure to pay bill; discontinuance of water service.

The charges for garbage and trash pickup service, which shall be debited to each water meter account, shall render such water meter account delinquent if not paid with the water bill on a monthly basis. Failure to pay such charge shall be a violation of this article and the city may discontinue water service for such violation. Discontinuance of water service for failure to pay garbage charges shall not be construed as a criminal penalty and no notice and hearing shall be required for persons violating the provisions of this article.

(Code 1974, § 8-7; Code 1994, § 62-29; Code 2005, § 66-22)

Secs. 66-23--66-47. Reserved.

DIVISION 2. CONTAINERS

Sec. 66-48. Specifications.

Every owner, occupant, tenant or lessee using or occupying any building, house or structure within the city for a residence, church, school, lodge, industry, or for commercial, business or other purpose, shall provide and maintain garbage containers of sufficient number and size to hold the garbage and trash that will normally accumulate on the premises. Each container shall be not less than ten or more than 31 gallons, and shall be constructed of substantial materials with tight-fitting lid or cover and equipped with handles sufficiently strong for workmen to empty such containers.

(Code 1974, § 8-2; Code 1994, § 62-41; Code 2005, § 66-48)

Sec. 66-49. Placing for pickup; bundling trash.

The containers for trash and garbage shall be placed at the point designated by the agent of the city. If trash is of such a nature that it cannot be put in the containers, it shall be carefully placed in bundles under 50 pounds in weight so that it can be removed conveniently, and tree limbs and hedge cuttings shall not exceed three feet in length.

(Code 1974, § 8-3; Code 1994, § 62-42; Code 2005, § 66-49)

Sec. 66-50. Keeping closed.

The lids or covers of all containers shall at all times be kept secure and fastened so that flies and other insects may not have access to the contents of the containers, and such lids or covers shall only be removed while the containers are being filled or emptied.

(Code 1974, § 8-4; Code 1994, § 62-43; Code 2005, § 66-50)

Chapters 67--69

RESERVED

Chapter 70

STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES*

***State law reference**—General authority of home rule municipalities concerning highways, streets and alleys, V.T.C.A., Transportation Code § 311.001; general authority of home rule municipality regarding sidewalks, V.T.C.A., Transportation Code § 311.004; use of municipal streets and sidewalks for public convenience and amenities, V.T.C.A., Transportation Code § 316.001 et seq.; consent of governing body required for utility use of streets and ways, Vernon's Ann. Civ. St. art. 1175; public buildings and grounds, V.T.C.A., Local Government Code ch. 281 et seq.; parks and other recreational and cultural resources, V.T.C.A., Local Government Code ch. 306 et seq.

ARTICLE I. IN GENERAL

~~Sec. 70-1. Reserved.~~

~~**Editor's note**--Ord. No. 2008-27, § 1, adopted Oct. 6, 2008, deleted § 70-1, which pertained to the Design Criteria Manual and was derived from Ord. No. 2007-14, §§ 1, 2, adopted Oct. 1, 2007.~~

Secs. 70-1--70-18. Reserved.

ARTICLE II. STREETS GENERALLY

Sec. 70-19. Damaging streets.

It shall be unlawful for any person to damage, mar, mutilate or deface any street, alley or other public right-of-way, or any part thereof. Excavations in the public streets may be made as authorized under permit from the city pursuant to section 70-112 et seq.

(Code 1974, § 15-1; Code 1994, § 66-26; Code 2005, § 70-19)

State law reference—Criminal mischief, V.T.C.A., Penal Code § 28.03; obstructing streets, V.T.C.A., Penal Code § 42.03.

Sec. 70-20. Permit required to obstruct with building operations.

It shall be unlawful for any person to erect, repair, change, alter or remodel any building on the public square or any paved street in the city in such a manner as to obstruct any street or alley, without first obtaining a permit from the city manager and giving notice to the chief of police and without placing on such obstruction a red light from sundown to sunrise, such red light or lights to be so placed on such obstruction as to be observed by those traveling such obstructed streets and alleys from all directions. The permit fee shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-4; Code 1994, § 66-27; Code 2005, § 70-20)

Sec. 70-21. Soil on streets, duty of adjacent property owner to remove; abatement by city, costs; penalty.

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

Owner means any person, or any officer, agent or employee thereof, occupying or having control of real property.

Paved city street means any public street of the city which is paved or covered with asphalt or concrete cement.

Soils means dirt, sand and other similar earth matter, and also means rocks and other solid or semisolid mass material, whether produced by man or nature, but shall not include the matter composing the street surface or appurtenances thereto.

(b) *Soil deposits prohibited*. It shall be unlawful for any person to cause or permit the depositing of soils on paved city streets.

(c) *Duty of adjacent property owner to remove soil*. It shall be unlawful for an owner of property adjacent to a paved city street to fail to remove from such street soil which by rain or other occurrence has washed or removed itself from such adjacent property to the adjacent paved city street, provided, however, it shall be a defense to prosecution under this section that such soils were removed and cleared from such paved city street within 24 hours of the occurrence which caused the depositing of soils into the street if such occurrence was by act of God, or within six hours if such occurrence was by act of man.

(d) *Abatement by city*. When the existence of a nuisance as described in this section shall come to the knowledge of the city manager, it shall be his duty to cause a written notice thereof to be served on the owner responsible for creating or allowing such nuisance. Such notice shall identify the property, shall set forth the action required to abate the nuisance, and shall provide that if the nuisance is not abated within 72 hours of notice thereof, the city may at once cause such abatement to be done and pay therefor and charge the cost and expense incurred to the owner. If the owner shall fail to pay the city for such costs and expenses within ten days of demand therefor, then the city may perfect a lien upon the property of the owner in the same manner and upon the same cost basis as provided in section 26-127 for nuisance abatement on private property.

(e) *Notice.* Notice to the owner under this section may be served in person, by certified mail, return receipt requested, or by attaching such notice to the front door of any building situated upon the property subject to a lien under this section, or, if there is no building, then by attaching such notice upon a placard erected on such property.

~~(e) *Penalty*. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined as provided in section 1-14.~~

(Code 1994, § 66-28; Code 2005, § 70-21; Ord. No. 91-25, §§ 2--6, 9-23-1991)

Sec. 70-22. Alteration of roadside drainage ditches.

(a) *General prohibition*. It shall be unlawful for any person to alter, cause to be altered or permit the alteration of any roadside drainage ditch within public street rights-of-way in the city unless such alteration is in accordance with the terms of this section.

(b) *Factors under which alterations are permitted.* Alterations of roadside drainage ditches located within public street rights-of-way in the city which reduce the carrying capacity or storage capacity of stormwaters therein are hereby prohibited unless:

(1) Such alterations will not increase flood elevations of neighboring or upstream properties;

(2) Such alterations will not adversely affect the drainage of stormwaters over and across other properties within the local drainage area or watershed; and

(3) Such alterations are not otherwise prohibited by any rule, regulation, ordinance, statute or law of any governmental unit or agency having jurisdiction thereover.

(c) *Permit for alterations required; application procedure; fees.* It shall be unlawful for any person to alter any roadside drainage ditch located within public street rights-of-way in the city unless a permit therefor has been obtained in accordance with this section. Applications for permits shall be filed with the city manager or the official designated by the city manager to receive such applications. Forms for such permit applications shall be available in the office of the city secretary. All permit applications shall be accompanied by plans and specifications for the proposed alterations. Fees for alteration permits shall be as set by resolution and printed in Appendix D to this Code ~~established by the city council~~.

(Code 1974, § 15-7; Code 1994, § 66-29; Code 2005, § 70-22)

Sec. 70-23. Street address numbers to be displayed; specifications.

(a) The owner, occupant or person in control of every building or structure in the city used or intended to be used for residential, business, commercial, educational, religious, governmental or similar purposes shall cause to be placed on the premises upon which such building or structure is situated the street address number designated for such building or structure.

(b) The street address number shall be placed on the building or structure, the mailbox, the curb, or elsewhere on such premises and shall be of sufficient size so that it may be readily seen and identified from the street upon which such building or structure faces.

(Code 1974, § 15-5; Code 1994, § 66-30; Code 2005, § 70-23)

Sec. 70-24. Installation of mailboxes adjacent to state highways.

~~(a) *Standards adopted by reference.*~~ It shall be unlawful for any person to install any mailbox, whether new or replacement, along or adjacent to any state highway or farm-to-market road located within the corporate boundaries of the city unless such mailbox installation complies with the standards in the drawings which are on file in the city secretary's office and which are hereby made a part of this section by reference.

~~(b) *Penalty for violation.* Any person who shall violate any provision of this section shall, upon conviction, be fined pursuant to section 1-14.~~

(Code 1974, § 15-6; Code 1994, § 66-31; Code 2005, § 70-24)

Sec. 70-25. Vacation of street, drainage, utility or other public easement.

(a) The city council will provide for the vacation, abandonment or relocation of an existing road/street right-of-way, or any drainage, utility or other public easement, upon satisfaction of the following conditions:

(1) A property owner whose property abuts a public easement or right-of-way, and is located within the corporate limits, makes application to the city requesting the vacation, in whole or in part, of the abutting public easement or right-of-way;

(2) A completed application form is submitted to the community development department, identifying the entire limits or extent of the right-of-way/easement and the limits of the section to be abandoned, if different;

(3) Such request and application shall be accompanied by an exhibit and a metes and bounds description of the vacated right-of-way which has been prepared by a registered professional land surveyor;

(4) Written confirmation from all owners of real property abutting the easement, utility companies, drainage districts and/or other interested agencies stating they have been notified of the requested right-of-way vacation and a letter of "no objection" from each of the concerned entities.

(b) Upon receipt of all information, the city shall schedule a joint public hearing with the city council and the planning and zoning commission. The city shall provide written notice of such joint public hearing to each owner of real property, as indicated by the most recently approved city tax roll, whose property abuts or lies within 200 feet of the existing right-of-way/easement (in its entirety). At the public hearing, any person desiring to be heard regarding such a matter will be given an opportunity to do so. The following items are required by the city to hold a joint public hearing:

(1) Application;

(2) Metes and bounds description;

(3) Title report;

(4) Fees; and

(5) Utility letters.

Notice of said hearing shall be given by publication one time in a paper of general circulation in the city stating the time and place of hearing which shall not be less than 15 days nor more than 30 days from the date of the public publication.

(c) After compliance with the above items, the joint public hearing shall be held. Within 30 days of the hearing, the planning and zoning commission shall make a recommendation to city council. The city council shall decide whether to grant or deny the request. If a vacation request is granted, an ordinance and quitclaim deed will be prepared (ordinances must be heard in accordance with the city Charter).

(d) When required by state law, an appraisal shall be made for an application for vacation of a public right-of-way. The applicant shall pay for all appraisal fees incurred. The appraisal shall be requested to determine the market value of the city's interest in the public right-of-way. No appraisal shall be required for an application for vacation of a public easement. The market value of the city's interest in a public easement is deemed to be zero.

(e) An application fee ~~of $300.00~~ shall be required of each applicant seeking a vacation of any right-of-way. This fee shall be set by resolution and printed in Appendix D to this Code ~~may be changed from time to time by city council action~~.

(Code 1994, § 66-32; Code 2005, § 70-25; Res. No. R98-2, §§ 1--5, 1-19-1998)

Secs. 70-26--70-54. Reserved.

ARTICLE III. CONSTRUCTION

Sec. 70-55. 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:

Alley means any street as defined in this section of 20 feet or less and having no legal or official name other than "alley."

Driveway means entrances to and exits from private premises where it is possible to park completely off the street and which are not open for vehicular traffic except by permission of the owner of such private premises.

Highway, street or *road* means a general term denoting a public way for the purpose of vehicular travel and including the entire area within the right-of-way.

Loading dock means a raised platform for loading or unloading of materials.

Local street or road means a street or road primarily for access to residence, business or other abutting property.

Major thoroughfare means a public street which is designated on the most recent major thoroughfare plan approved by the planning and zoning commission, and those streets that carry high traffic volumes and on which traffic control measures are used to expedite the safe movement of through traffic.

Pedestrian means any person afoot.

Sidewalk means the minimum paved walkway, built in conformance with the city design criteria manual and standard construction details, located within the public right-of-way, or easement dedicated for public use, which provides continuous pedestrian access to adjacent land.

(Code 1974, § 15-36; Code 1994, § 66-51; Code 2005, § 70-54; Ord. No. 2008-19, § 1, 7-7-2008)

~~**Sec. 70-55. Reserved.**~~

~~**Editor's note--**Ord. No. 2008-19, § 1, adopted July 7, 2008, deleted § 70-55, which pertained to the approval of plans and specifications and was derived from Code 1974, § 15-37; and Code 1994, § 66-52.~~

Sec. 70-56. Driveway approval standards.

(a) Upon receipt of an application for a driveway permit, the city manager shall make or cause to be made a determination as to whether the driveway applied for is necessary to provide reasonable access to the private property consistent with the safety and convenience of the public, taking into account the following matters:

(1) The nature and volume of traffic on the street on which the private property abuts.

(2) The dimensions and type of construction of the street on which the private property abuts.

(3) The effect that the passage of vehicles to and from the private property will have upon the safety of the public and on movement of traffic on the street to which the driveway connects.

(4) The use to be made of the private property.

(5) The dimension of the private property, and the type and location of improvements thereon or to be placed thereon.

(6) The extent of the access which the private property has or will have to other public streets, if any.

(b) The permit fee under this section shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-38; Code 1994, § 66-53; Code 2005, § 70-56)

Sec. 70-57. Restrictions.

After making, or causing to be made, a determination for approval of the driveway as set out in section 70-56, the city manager shall grant or refuse the application in accordance with the following rules:

(1) He shall refuse to issue a permit for a single driveway opening unless it shall be found to be necessary for reasonable access.

(2) If the application is for more than one driveway opening into the same premises, he shall allow no more such openings than the minimum number found to be necessary to provide reasonable access.

(3) He shall refuse to issue a permit for any driveway opening where it has been found that the proposed use of the driveway would create an extraordinary traffic hazard or would excessively interfere with the normal use of the right-of-way.

(4) Every permit issued shall specify the maximum width of the driveway opening for which the permit is granted and such width shall be no greater than the minimum necessary to provide reasonable access.

(5) If a permit is granted for more than one driveway opening into the same premises, it shall specify that each such opening shall be separated from the others by a distance of no less than 20 feet, and that an upright curb must be constructed along the edge of the area of separation next to the improved portion of the street.

(Code 1974, § 15-39; Code 1994, § 66-54; Code 2005, § 70-57)

Sec. 70-58. State review of plans and specifications.

The state highway department will review plans for the proposed construction of driveways, sidewalks, parking lots and alleys into or abutting all state highways. Evidence of this review and approval must be submitted with plans prior to obtaining the city's approval. The state's concurrence to proposed construction is insufficient alone since it is conditioned upon the city's granting final approval.

(Code 1974, § 15-40; Code 1994, § 66-55; Code 2005, § 70-58)

Sec. 70-59. Standards for design and construction.

The following will be built in conformance with the city design criteria manual and standard construction details:

(1) Driveway geometric design standards.

(2) Off-street parking lots.

(3) Change of type "B" inlets for construction of driveways.

(4) Type "D" inlets.

(5) Standard curb and gutter section.

(6) Construction notes for sidewalks, driveways, curbs and gutters.

(7) Standard requirements for paving public alleys.

(8) Island construction for continuous culvert pipe.

(Code 1974, § 15-41; Code 1994, § 66-56; Code 2005, § 70-59; Ord. No. 2008-19, § 1, 7-7-2008)

Sec. 70-60. Plot plan required.

A plot plan shall be prepared to scale and presented to the city manager showing the following information:

(1) All proposed driveways and sidewalks shall be shown in detail and shall conform to the standards for design and construction in conformance with the city design criteria manual and standard construction details.

(2) All existing driveways and sidewalks shall be shown as they exist on the ground, showing the driveway width and design.

(3) Existing conditions between the right-of-way line and the traveled roadway, including, but not limited to, curbs, ditches, storm sewer inlets, manholes, utility poles, fire hydrants, traffic control and directional signs, and trees.

(4) When private property being developed fronts a "T" intersection street, the complete intersection must be shown on the plot plan.

(5) When private property is being improved with add-on construction, remodeling, accessories, repairs, erection of building parking lots or any other improvements, and all existing onsite conditions shall be shown on the plot plan.

(6) Cross sections, as applicable, of proposed driveways and sidewalks, either or both, shall be shown on the plot plan. When such cross sections are shown elsewhere in a set of drawings, reference to the sheet number shall be noted on the plot plan.

(Code 1974, § 15-42; Code 1994, § 66-57; Code 2005, § 70-60; Ord. No. 2008-19, § 1, 7-7-2008)

Sec. 70-61. Driveway drainage requirements.

If an existing curb-type storm sewer inlet falls within the proposed driveway area, a new curb-type storm sewer inlet will be required to be constructed on the nearest remaining straight

curbline. The existing inlet will be converted to a flat grate-type inlet and connected to the new inlet by a concrete pipe lead of a diameter not less than the existing lead. Failure to show the existing inlets on the plot plan in no way releases the developer from these requirements, even though the permit may have been issued. Refer to drawing number 74-3 (change of type "B" inlet). Drainage of surface water through the curb will be limited to the use of a pipe of a minimum four-inch inside diameter and a maximum distance of one foot, center to center.

(Code 1974, § 15-47; Code 1994, § 66-58; Code 2005, § 70-61)

Sec. 70-62. Driveway culvert pipe.

(a) *Width*. No culvert pipe of less than the inside diameter of the nearest upstream culvert pipe shall be installed. In no case will a culvert pipe of less than 15 inches inside diameter be permitted. Proposed driveways over culvert pipes shall not be constructed of concrete. Proposed culvert pipe sizes may be verified by contacting the city engineer.

(b) *Length*.

(1) If a request is made for runs of culvert pipe in excess of the normal maximum 35-foot-wide driveway culvert, the city engineer will conduct a field investigation of the feasibility and practicability of the culvert pipe installation. If the request must be denied, the petitioner will be advised why his request cannot be granted.

(2) When the request for a long run of culvert pipe is approved in excess of the 35-foot maximum driveway width required, concrete curbed islands shall be constructed in accordance with drawing number 74-9 (island construction for continuous culvert pipe).

(3) Whenever a building permit is sought on abutting property having existing culvert pipe in excess of 35 feet without concrete curbed islands required by this section, such building permit shall not be issued without the construction of concrete curbed islands in compliance with this section.

(4) The plot plan to accompany a request for extra length culvert pipe shall include:

a. Location of proposed culvert pipe by street address.

b. Size and length of culvert pipe approval requested.

c. Construction and spacing of type "D" inlets.

d. Conformity with driveway geometric design standards regarding spacing of driveways for the construction of the concrete curbed island.

(Code 1974, § 15-48; Code 1994, § 66-59; Code 2005, § 70-62)

Sec. 70-63. Driveways prohibited in certain areas.

Driveways are prohibited within the following areas:

(1) Within the areas set forth by the state highway department as "access denied."

(2) Within the areas designated "access denied" on recorded subdivision plats or any other plat required to be approved by the city planning and zoning commission.

(3) At the end of any dead-end street not terminating in a cul-de-sac or permanent turnaround and intended to be extended in the future.

(4) Within the limits of any intersection, with the exception that special consideration will be given to major thoroughfares with existing esplanades and to streets primarily used for residential purposes.

(5) Within any area with less than 20 feet of unobstructed depth from the right-of-way line to any obstruction.

(6) Within an area abutting major thoroughfares where the general design of the parking does not provide the necessary depth to allow a vehicle when exiting to enter the thoroughfare in a head-out position.

(7) Any existing driveway that may fall within an area where the 20-foot minimum unobstructed depth is shortened by the construction of a structure of any type. Such driveway shall be removed and the area restored to its original state.

(8) Within any area where the city manager finds that it would not provide reasonable access to private property consistent with the safety and convenience of the traveling public.

(Code 1974, § 15-50; Code 1994, § 66-60; Code 2005, § 70-63)

Sec. 70-64. Sidewalks required.

Sidewalks are required along all streets.

(1) Exception: Sidewalks shall not be required in single-family residential (SFR) and single-family residential estate (SFR-E) districts where open ditch streets are approved.

(2) Sidewalks may not be required when, in the judgment of the planning and zoning commission, the safety of the pedestrians does not require such sidewalks.

(3) If a plat is required, the developer, prior to the city's final acceptance of the infrastructure, must install sidewalks along reserves and rights-of-way prior to the city's final acceptance of the infrastructure.

(4) If no platting or infrastructure construction is required, sidewalks must be installed prior to issuance of the final certificate of occupancy of the structure.

(5) If sidewalks are required by the city design criteria manual, subdivision ordinance, or zoning ordinance, and the installation at the required time is not feasible, the city may require, or the property owner may petition the planning and zoning commission to allow, the property owner to satisfy the sidewalk requirement by payment of a fee to the city's sidewalk installation fund in lieu of installing the approved sidewalk per Appendix B, subdivision ordinance of this Code, section V.i.3.

(6) When sidewalks are required, they shall be built in accordance with the city design criteria manual and standard construction details.

(Code 1974, § 15-43; Code 1994, § 66-61; Code 2005, § 70-64; Ord. No. 2008-19, § 1, 7-7-2008; Ord. No. 2011-28, § 2, 10-3-2011)

Sec. 70-65. Extensive street curb and gutter removal and replacement.

Where construction of driveways and sidewalks will require the removal and replacement of curb and gutter over a continuous run in excess of 25 percent of any one block, a plan shall be submitted to the city manager with the following information, which shall be in addition to the information required by section 70-60:

(1) A continuous profile plotted to scale of one inch equals two feet vertically and one inch equals 20 feet horizontally, containing all the existing and proposed profiles necessary for reviewing. The proposed gutter grade should meet the following minimum design criteria:

a. Minimum gutter grade, except at corner curb returns, shall be one-fourth of one percent (three-inch fall per 100 feet).

b. Minimum gutter grade around corner curb returns shall be one percent (example: 0.22-foot fall around 14-foot radius).

c. A vertical curve with elevations given every ten feet will be required where the algebraic difference of the proposed gutter grades exceeds one percent, excluding corner curb radius grades.

(2) Construction details for replacing curbs and gutters and base, any or all, when necessary to remove such curbs and gutters and base for realignment of curbs and gutters horizontally or vertically. The method of tie of proposed curbs and gutters and base, any or all, to existing pavement, with or without reinforcing steel, shall be given in detail. For asphalt surfaced streets, "feathering" of type "F" asphalt toward crown shall be made at a sufficient distance to ensure adequate cross-slope drainage. Minimum one-fourth-inch per foot will be required when raising proposed gutter above existing gutter line. The city engineer should be contacted for clarification of these requirements where necessary.

(Code 1974, § 15-45; Code 1994, § 66-62; Code 2005, § 70-65)

Sec. 70-66. Parking lots.

(a) It shall be unlawful for any person who operates, keeps or maintains, or causes to be operated, kept or maintained, a parking lot where automobiles or other vehicles are parked on private property adjacent to public streets or sidewalks, to permit any automobile or vehicle parked thereon to be parked in such a manner as to protrude over the property line of such parking lot or to obstruct in any manner any public street or sidewalk adjacent to such private property.

(b) When an area is being developed for parking, a plan shall be prepared and submitted to the city manager showing the boundaries, entrances and exits, geometric layout of stalls and aisles, operating plan, drainage, and surfacing or paving. The space being developed for parking shall be surfaced with asphalt or better and parking spaces or stalls shall be identified by striping with paint or other method approved by the city manager.

(c) When the parking lot is designed to create a one-way aisle operation, an exit shall be provided to enable the vehicle exiting to enter the street in a head-out position.

(d) A three-inch mountable concrete curb shall be constructed whenever the area between the property line and the curb is paved. The curb shall be placed adjacent to the property line except when used as a vehicle wheel stop; in which case, it shall be a six-inch concrete curb or similar permanent type wheel stop placed a minimum of 2 1/2 feet inside the property line.

(e) A three-inch mountable concrete curb shall be constructed whenever an area adjacent to the right-of-way is to be paved or used for parking. The curb shall be placed adjacent to the property line except when used as a vehicle wheel stop; in which case, it shall be a six-inch concrete curb or similar permanent type wheel stop placed a minimum of 2 1/2 feet inside the property line.

(f) Paved areas, parking lots, yards, courts and courtyards shall be drained into a storm sewer system where such systems are available; otherwise, they shall be drained to a place of disposal approved by the city manager. Stormwater drainage shall not discharge or flow over any public sidewalk or adjoining property.

(Code 1974, § 15-49; Code 1994, § 66-63; Code 2005, § 70-66)

Sec. 70-67. Alley paving.

The requirements for paving a public alley are identical to public street paving, requiring plan-profile type of drawings prepared by a registered professional engineer and approved by the city engineer. Drawing number 74-8 (standard requirements for paving alleys) will govern the design and construction of alleys. A separate paving permit issued by the city and a separate

paving bond will be required prior to any construction. The permit fee and bond amount shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-46; Code 1994, § 66-64; Code 2005, § 70-67)

Sec. 70-68. Off-street truck loading docks.

In no case shall a back-in type loading dock be constructed on major thoroughfares where the vehicle is using the major thoroughfare for maneuvering purposes. Where off-street back-in loading docks are constructed, the loading area shall be sufficiently designed and constructed to store the commercial motor vehicle, truck-tractor, tractor, trailer or semitrailer, or combination of such vehicles, within private property and no part of such commercial vehicles shall protrude over the property line or obstruct in any manner any public street or sidewalk area. The depth of the loading dock from the right-of-way and property line extending onto private property shall be determined by the type of commercial vehicle using the facility. All other type loading areas other than the loading dock shall require a 20-foot minimum depth from the property line.

(Code 1974, § 15-44; Code 1994, § 66-65; Code 2005, § 70-68)

Sec. 70-69. Permit required by bonded contractor.

It shall be unlawful to construct, reconstruct, repair or regrade any driveway, sidewalk, culvert pipe, curb or gutter within the city without obtaining a permit from the city manager, which permit shall be kept conspicuously displayed within 20 feet of the construction area during the prosecution thereof. The permit fee shall be set by resolution and printed in Appendix D to this Code. The application for a permit shall be made to the city manager, stating the nature and extent of the proposed improvements, location by lot, block and street number, together with the plans and specifications provided for in section 70-60. The applicant shall furnish evidence that he has secured a bond in accordance with the provisions of section 70-71.

(Code 1974, § 15-51; Code 1994, § 66-66; Code 2005, § 70-69)

Sec. 70-70. Homeowner's permit.

A homeowner's permit will be issued to install culvert pipe or construct a driveway where no curb cut is required, in accordance with city specifications, without the bond required in section 70-71. The permit fee shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-52; Code 1994, § 66-67; Code 2005, § 70-70)

Sec. 70-71. Contractor's bond.

No person, except a person laying permanent street paving under contract with the city, shall be entitled to construct, reconstruct, repair or regrade any driveway, culvert pipe, sidewalk, curb or gutter within the city unless he shall first execute to the city a yearly bond in the sum as set by resolution and printed in Appendix D to this Code, ~~of $2,000.00~~ payable to the city, with two or more sureties, or with a corporate surety authorized to do business in the state, conditioned that the principal therein will construct, reconstruct, repair or regrade all driveways, culvert pipes, sidewalks, curbs or gutters in accordance with this article and on the line and grade as established by the city engineer, and further conditioned that such person will save the city harmless from all loss or damage to any person, of whatever character, arising by reason of negligence on the part of the contractor in performing such work, or in leaving the same ungraded, or from any other cause. The bond shall further recite that all work done by the contractor during the year for which such bond shall hold good shall be performed to the satisfaction of the building official.

(Code 1974, § 15-53; Code 1994, § 66-68; Code 2005, § 70-71)

Sec. 70-72. Effect of acceptance of permit.

Any person to whom a permit is issued pursuant to any of the provisions of this article will, by his acceptance of such permit (which acceptance shall be conclusively presumed, if after the permit is issued he does any of the work contemplated or provided for in the application), undertake or promise that the work covered by the permit and application will be done in full and exact accordance with the provisions of the application and of the plans and specifications therefor, and that no other work than that covered by the permit will be undertaken pursuant thereto. He will further thereby agree that, during the course of the work, every instruction and order of the city engineer or building official for stopping any work which is being done in a manner contrary to the plans and specifications or the application, correcting and replacing any work not in compliance therewith or completing any work necessary to accomplish compliance therewith, will be promptly and immediately observed. Without limiting the obligation of the applicant to faithfully adhere to the plans, drawings and all of the specifications he will, by the acceptance of a permit, particularly undertake that no materials will be used in the work except those which, under the appropriate provisions of the city's minimum standards and specifications, have been tested and approved by an approved testing laboratory as therein provided; and that if any materials not so tested and approved are used, he will, upon such violation being discovered, replace such materials by work of proper tested and approved materials.

(Code 1974, § 15-54; Code 1994, § 66-69; Code 2005, § 70-72)

Sec. 70-73. Construction in city right-of-way.

It shall be unlawful for any person, on behalf of himself or on behalf of any other person, to perform or cause to be performed or to permit the construction, reconstruction, repair or regrading of any driveway, sidewalk, curb and gutter or culvert pipe within the right-of-way, without obtaining a permit from the city manager; provided, however, this prohibition shall not apply to any person performing any work under contract with the city or to public utility companies having a franchise from the city.

(Code 1974, § 15-55; Code 1994, § 66-70; Code 2005, § 70-73)

Sec. 70-74. Duties of abutting property owners; failure of property owners to have work done.

It shall be the duty of every owner of real estate in the city abutting on any public street or alley in the city, in front of which real estate or along which street the city engineer may order the construction, reconstruction or repair, or bringing to grade of driveways, sidewalks, culvert pipes, curbs or gutters, or any of them, to cause such improvements to be constructed, reconstructed or repaired or bring such driveways, sidewalks, culvert pipes, curbs or gutters to grade, as the case may be, in accordance with the terms of such order, the specifications set out in this article and on the line and grade as established by the city engineer for the particular block, street or community in which the real estate may be situated. Such property owners shall cause to be constructed such improvements in front of their respective property after the giving of written notice by the building official, which notice shall fix the time for completion of such work. After the expiration of the time indicated in the notice to construct, reconstruct, repair or regrade, if the abutting owner shall not have built such improvements as ordered and indicated in the notice, then the city shall have the right to construct the improvements in accordance with the order for such improvements, and the standard specifications set out in this article under the supervision of the building official, and may advertise for bids or may itself construct such improvements, at the expense of the abutting property owner, and may recover a personal judgment in any court having jurisdiction of the amount for the cost and expense in constructing, reconstructing, repairing or regrading such driveways, sidewalks, culvert pipes, curbs and gutters, with ten percent additional for attorney's fees, and may by ordinance fix a lien on the property improved.

(Code 1974, § 15-56; Code 1994, § 66-71; Code 2005, § 70-74)

Sec. 70-75. Altering lines or grades when putting down permanent street pavement.

The city hereby expressly reserves the right, when putting down a permanent street pavement, either by the original construction or reconstruction, to change or alter the lines and grades of such permanent pavement of the driveway, sidewalks, culvert pipes, curb or gutters on the street, when in the opinion of the building official such change is necessary for the proper paving or drainage of the street, and without liability on the part of the city by reason of such change. If a driveway or sidewalk, the line or grade of which is changed, is in good condition and does not, in the opinion of the building official, require entire reconstruction, the owner thereof shall be given written notice by the building official to break such driveway or sidewalk back to a point fixed by the building official and to remove the broken portion and reconstruct such portion on the line and grade determined by the city engineer, at the cost of such abutting owner. Such notice shall fix the time for the completion of such work. If such owner shall fail or refuse to obey the order of the building official within the time fixed in such notice, he shall be subject to all the penalties of this article, and the building official shall have the right to have such breaking and reconstructing to grade of such driveway or sidewalk done by a paving contractor, or other person, at the expense of the abutting owner.

(Code 1974, § 15-57; Code 1994, § 66-72; Code 2005, § 70-75)

Sec. 70-76. Violations; penalty.

Any person constructing, reconstructing, repairing or regrading any driveway, sidewalk, culvert pipe, curb or gutter who shall fail first to give the bond required by this article, or who shall construct, reconstruct or repair any driveway, sidewalk, culvert pipe, curb or gutter without obtaining from the city engineer the line and grade therefor, or who shall construct any driveway, sidewalk, culvert pipe, curb or gutter or any other line and grade than that given by the city engineer or without obtaining a permit therefor, or who shall fail to construct, reconstruct, repair or regrade any driveway, sidewalk, culvert pipe, curb or gutter after notice so to do, or who shall violate any other provision of this article, shall be guilty of a misdemeanor ~~and, upon conviction, be fined as provided in section 1-14~~.

(Code 1974, § 15-58; Code 1994, § 66-73; Code 2005, § 70-76)

Sec. 70-77. Restricted area.

The areas in the city where construction is restricted under sections 70-78 through 70-80 are as follows:

(1) All of that portion of land lying within a triangular shaped area on each street corner within the city described by metes and bounds as follows: Beginning at the precise corner of intersection point of the curbs of each of the two streets intersecting, forming each corner and extending 20 feet along each such curbline from such curb intersection point, the third side being determined by the drawing of a straight line from the ends of each such 20-foot extension, all as more fully portrayed by the sketch set out in this section (whether such land is privately owned or unpaved or untraveled street right-of-way property).

(2) Where no curbs are in existence at such street intersections, such 20-foot lines shall coincide with the central flow line of the ditches paralleling such uncurbed streets (as such central flow line shall be determined by the engineer of the city).

(Code 1974, § 15-63; Code 1994, § 66-74; Code 2005, § 70-77)

Sec. 70-78. Maximum height of structures.

(a) No property owner shall erect or maintain or cause to be erected or maintained within any area restricted under section 70-77 any wall, fence or other structure, except utility poles, to a height greater than three feet from the street gutter flow line.

(b) The term "street gutter flow line," as used in this section and sections 70-79 and 70-80, means the street gutter flow line of the curb adjacent to and bordering upon each area restricted under section 70-77; if there is no such curb as aforesaid, the height restrictions 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.

(Code 1974, §§ 15-62, 15-64; Code 1994, § 66-75; Code 2005, § 70-78)

Sec. 70-79. Maximum plant height.

No property owner shall plant, grow or maintain or cause to be planted, grown or maintained in any area restricted under section 70-77 any plant, hedge, shrub or other growth, except trees as provided for in section 70-80, at a height greater than four feet from the street gutter flow line.

(Code 1974, § 15-65; Code 1994, § 66-76; Code 2005, § 70-79)

Sec. 70-80. Minimum branch height above street gutter flow line.

Any trees planted, grown and maintained in any area restricted under section 70-77 shall not have branches or foliage extending from the trunk thereof at a height lower than eight feet from the street gutter flow line.

(Code 1974, § 15-66; Code 1994, § 66-77; Code 2005, § 70-80)

Sec. 70-81. Extending into street.

No property owner shall permit the growth of any tree limbs that extend over the curb and gutter into the street at an elevation lower than ten feet above the traveled portion of such street.

(Code 1974, § 15-67; Code 1994, § 66-78; Code 2005, § 70-81)

Sec. 70-82. Violations, notices to owner; penalties.

Any person whose property is in violation of this article shall first receive a 30-day written notice which may be delivered to any adult person at such person's residence; and, if the condition in violation has not been corrected within 30 days from the date of such notice, before prosecution may commence by complaint in the municipal court, a 30-day notice in writing shall be mailed, certified, return receipt requested, which notice shall set out in detail the conditions to be corrected. If the person receiving such notice fails to make the corrections required thereby within 30 days from the date of the receipt thereof, such person shall be deemed to have violated the terms and provisions of this article and shall be guilty of a misdemeanor ~~subject to the penalties provided in section 1-14~~.

(Code 1974, § 15-68; Code 1994, § 66-79; Code 2005, § 70-82)

Sec. 70-83. Entry by city to correct conditions.

In addition to the penalty for violation of the provisions of this article, the city shall be entitled to enter upon and remove from the triangular corner areas provided for in section 70-77 any of the prohibited structures or growths, and such entry and removal upon the private property portions of such triangular areas shall be without liability to the owners thereof.

(Code 1974, § 15-69; Code 1994, § 66-80; Code 2005, § 70-83)

Sec. 70-84. Exceptions to article.

(a) *Improved property as permitted by zoning*. The provisions of this article, to the extent of private property only, shall not apply to property which is zoned so as to permit the erection of buildings on the property line; however, any of such property which is unimproved by buildings and physical structures shall be subject to the terms of this article so long as such property is unimproved.

(b) *Existing structures*. The provisions of this article shall not apply to any business building, family dwelling or apartment house existing in the city prior to the enactment of this article, and not in violation of any law of the state or ordinance of the city.

(c) *Control of streets by city*. The provisions of this article shall have no bearing or effect upon the right of the city to administer and control the remaining portions of its public street rights-of-way not involved in the triangular corner areas provided for in section 70-77.

(Code 1974, §§ 15-70--15-72; Code 1994, § 66-81; Code 2005, § 70-84)

Secs. 70-85--70-111. Reserved.

ARTICLE IV. EXCAVATIONS

DIVISION 1. GENERALLY

Sec. 70-112. Restoration of streets, etc.

When any part of any street, alley, avenue or other public place in the city is torn, dug up or taken up for any purpose, the person doing the same shall, immediately upon the completion of such purpose, and as fast as practicable during the accomplishment thereof, return the earth and ram and puddle the same to firm and solid bearing, in such manner as will entirely prevent the settling of such earth, and shall also relay the paving, macadamizing or gravel in a skillful and permanent manner, and in every case to the entire satisfaction of the city manager; and if the excavation requires the breaking out of concrete, the concrete shall be broken, cut or removed in a skillful manner and along substantially straight lines.

(Code 1974, § 15-24; Code 1994, § 66-101; Code 2005, § 70-112)

Sec. 70-113. Barricades and lights.

It shall be unlawful for any person to make any excavation of whatsoever kind in the city, whether such excavation is in, along or near any street or sidewalk, alley or highway of any kind, without placing proper guardrails and signal lights or other warnings at, in or around the excavations, sufficient to warn the public of such excavations and to protect all persons using reasonable care thereon from accidents on account of such excavations.

(Code 1974, § 15-25; Code 1994, § 66-102; Code 2005, § 70-113)

Sec. 70-114. Trench excavation safety compliance.

No permit shall be issued for any construction project requiring trench excavation exceeding five feet in depth unless the applicant for the permit complies with the requirements in V.T.C.A., Health and Safety Code § 756.022(a).

(Code 1994, § 66-103; Code 2005, § 70-114)

Secs. 70-115--70-141. Reserved.

DIVISION 2. PERMITS

Sec. 70-142. Required.

It shall be unlawful for any person, under any pretext whatever, to make an excavation in any street, alley, sidewalk or other public way in the city until written application has been made upon blanks furnished by the city and until such person has received a written permit from the city manager authorizing the same; except that if an emergency exists where the health and safety of the citizens of the city are in danger, or for the immediate preservation of property, an excavation may be made to the extent of abating the dangerous condition or situation, provided that upon relieving the existing emergency, the provisions of this article shall be followed.

(Code 1974, § 15-16; Code 1994, § 66-116; Code 2005, § 70-142)

Sec. 70-143. Application; issuance.

Each application for an excavation shall describe the character of the work to be done, a full description of the premises where such work is to be done, and shall be signed by the person applying for the permit. The permit shall be issued in duplicate, the original to be delivered to the party applying therefor, and one copy to be filed in the office of the city manager, together with the application.

(Code 1974, § 15-17; Code 1994, § 66-117; Code 2005, § 70-143)

Sec. 70-144. Personal to applicant.

Permits shall be obtained by the person doing the work described in the application, and it shall be unlawful for any other person to do the work described in the permit issued on the basis of such application unless such person is an employee of the person in whose name the permit is issued.

(Code 1974, § 15-18; Code 1994, § 66-118; Code 2005, § 70-144)

Sec. 70-145. Fees.

A fee set by resolution and printed in Appendix D to this Code shall be charged for each excavation permit. No additional fees shall be charged unless replaced work is unsatisfactory to the city manager.

(Code 1974, § 15-19; Code 1994, § 66-119; Code 2005, § 70-145)

Sec. 70-146. Expiration.

Every permit shall be considered cancelled if active work under such permit is not commenced within 30 days from its date. Any fees paid in connection with a permit which is cancelled shall be retained by the city.

(Code 1974, § 15-20; Code 1994, § 66-120; Code 2005, § 70-146)

Sec. 70-147. Violation of conditions; revocation; repair by city.

(a) Should the city manager become convinced that the work under an excavation permit is not proceeding in accordance with the permit and the detailed application upon which the permit was issued, or is being done in violation of city specifications or is creating a safety hazard, it shall be his duty to notify the contractor or owner in writing that such work is being constructed in violation of the permit, and such work must be corrected within three days from the date of notice. If the contractor or owner neglects to comply with the notice, or fails to make corrections within the prescribed time, it shall be the duty of the city manager to revoke the permit, and notice thereof in writing shall be immediately served on the owner, superintendent or contractor in

charge of the work. Such notice shall be in writing and signed by the city manager or his authorized representative.

(b) After revocation of an excavation permit, any permittee or workman performing any work in or about such excavation shall be guilty of a misdemeanor.

(c) If a permit is revoked, the city shall cause the excavation to be repaired according to the provisions of this article and the charges shall be a valid claim against the permittee and his sureties.

(Code 1974, § 15-21; Code 1994, § 66-121; Code 2005, § 70-147)

Sec. 70-148. Surety bond required; conditions.

(a) No excavation permit shall be issued to any person in the city until such person shall have filed with the city a bond in the sum set by resolution and printed in Appendix D to this Code,~~of $1,000.00~~ with good and sufficient sureties, to be approved by the city manager. If a bonded franchise company does the work, he shall be required to file only one bond.

(b) The conditions of the bond required by this section are as follows:

(1) The permittee will perform all work in a good and workmanlike manner in strict accordance with the provisions of this article;

(2) The permittee will backfill any excavations in any streets, alleys, sidewalks or other public ways in the city, so as to return such streets, alleys, sidewalks and other public ways to their original condition;

(3) The permittee will place and maintain lights and guardrails around all excavations, materials or equipment left in any street, alley, sidewalk or other public place of the city; and

(4) The permittee will hold the city harmless from all damages, real or asserted, that may occur by reason of the excavation.

(Code 1974, §§ 15-22, 15-23; Code 1994, § 66-122; Code 2005, § 70-148)

Secs. 70-149--70-179. Reserved.

DIVISION 3. RIGHT-OF-WAY MANAGEMENT*

***State law reference**—Municipal management of public rights-of-way used by telecommunications providers, V.T.C.A., Local Government Code § 283.001 et seq.

Sec. 70-180. Title.

This division may be known and cited as the "Right-of-Way Management Ordinance for the City of Friendswood, Texas."

(Code 1994, § 66-126; Code 2005, § 70-180; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-181. Construction; governing law; venue.

This division shall be construed under and in accordance with the laws of the state and the city Charter and this Code to the extent that such Charter and this Code are not in conflict with or in violation of the Constitution and laws of the United States or the state. All obligations of the parties hereunder are performable in the county. The provisions of this division are in addition to any other requirement of this Code, and where there is a conflict, the more stringent provisions shall be required.

(Code 1994, § 66-127; Code 2005, § 70-181; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-182. Scope.

This division shall be effective within the geographical limits of the city, including any areas subsequently annexed by the city.

(Code 1994, § 66-128; Code 2005, § 70-182; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-183. Definitions.

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

~~*City* means the City of Friendswood, Texas, a home rule municipal corporation of the State of Texas.~~

~~*City council* means the governing body of the city.~~

Emergency means a situation which, unless immediate remedial action is taken, will likely result in harm to public health, safety, and/or welfare.

Facilities or *facility* means and includes, but shall not be limited to, pipes, conduits, wires, cables, towers, switches, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, fixtures, appurtenances, and such other objects, devices, or other items of tangible personal property, which are designed, constructed, installed, placed, used or operated in, upon, over, across, above, or below public rights-of-way. Notwithstanding the foregoing, structures designed and constructed for the support and passage of vehicular and pedestrian traffic, such as streets, alleys, highways, driveways, and sidewalks, whether at, below, or above grade, shall not be deemed to be facilities. A private, individually owned, connection and/or attendant downstream service line or device, through which a utility service is received by the end-user owning same, for which required permits have been issued under applicable building, plumbing, electrical, or other codes of the city, shall not be deemed as facilities.

Person means an individual, corporation, association, partnership, joint venture, firm, limited liability partnership, joint stock company, association, governmental entity other than city, or any other public or private entity.

Public rights-of-way or *public right-of-way* means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property within the corporate limits of the city, and in which the city holds a property interest (fee title, easement or otherwise), or over which the city holds and exercises a right of management or control, and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of facilities.

User means a person having facilities within a public right-of-way.

(Code 1994, § 66-129; Code 2005, § 70-183; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-184. Unauthorized use of public rights-of-way prohibited.

Except as otherwise specifically provided by law or this division, it shall be unlawful for any person to cause or permit the placement, construction, operation or maintenance of any facility within public rights-of-way, unless authorization has been granted by the city in accordance herewith.

(Code 1994, § 66-130; Code 2005, § 70-184; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-185. Registration required.

It shall be unlawful for any person to place facilities within public rights-of-way without having first filed with the city an application for registration therefor. The registration fee shall be set by resolution and printed in Appendix D to this Code. Applications for registration shall be filed with the city secretary. The city secretary shall issue a registration certificate to each person successfully completing and filing such application. Each registration certificate shall be issued in the name of the user. Registration certificates shall be renewed every 60 months. When information provided in an application for a registration certificate is no longer correct, the user shall inform the city, in writing, within 30 days following the date of such change. Each application for registration shall include:

(1) The name and legal status of the user;

(2) The name, address, telephone number, primary e-mail address, and fax number of the individual who will be the contact for the user;

(3) The name, address, telephone number, primary e-mail address, and fax number of the individual who will be the contact for field location of facilities;

(4) The name, address, telephone number, primary email address and fax number of an emergency contact who shall be available 24 hours a day; and

(5) Proof of insurance and bonding, as otherwise required herein.

(Code 1994, § 66-131; Code 2005, § 70-185; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-186. Construction within public rights-of-way.

It shall be unlawful for any person to cause or permit the construction or installation of facilities within public rights-of-way within the city, except as provided by this division and any other ordinance of the city applicable thereto.

(Code 1994, § 66-132; Code 2005, § 70-186; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-187. Construction regulations.

(a) *Excavations*. All excavations and other construction in the public rights-of-way shall be performed in accordance with all applicable state, federal, and city regulations.

(b) *Interference with use of property*. All construction within public rights-of-way shall be undertaken so as to minimize interference with the use of public and private property and in accordance with any lawful direction given by the city under the police and regulatory powers of the city.

(c) *Construction permits*.

(1) It shall be unlawful for any person to cause or permit any work which involves the construction, installation, expansion, repair, removal, or maintenance of facilities within public rights-of-way without having first applied for and obtained from the city a construction permit therefor. Permit fees shall be set by resolution and printed in Appendix D to this Code; provided, however, acquisition of construction permits shall not be required for any such work that does not involve the alteration or disturbance of the surface of the right-of-way. Each construction permit application shall include a written work description, including construction drawings, showing the facilities' location (or proposed location) and the estimated depth of the facilities (existing and proposed) in the immediate area of the proposed new construction. Such drawings shall be reviewed by the city and, if disapproved, returned with comments setting forth the reasons for such disapproval. Approvals shall not be unreasonably withheld or delayed. Except as otherwise specifically provided herein, work shall not commence until applicable

construction permits have been approved therefor. Review and approval by the city of construction permits as provided herein shall not constitute any representation or warranty regarding the sufficiency of design or construction of such facilities. All such work shall be in conformance with the approved construction permit.

(2) Work for which a permit is required may be performed at any time; provided, however, any such permitted work performed within 500 feet of any residential structure may only be performed between the hours of 6:00 a.m. and 10:00 p.m. Any permitted work performed outside of the above working hours must be approved in advance by the city manager or his/her designee.

(3) Further, all such construction and/or installation work shall be completed in the time specified in the construction permit. If the work cannot be completed within the specified time period, the user may request an extension from the city manager, or his/her designee, which extension shall not be unreasonably withheld.

(d) *Emergency repairs; restoration of service*. Notwithstanding other provisions of this division, during an emergency where, in the good faith judgment of the user, failure to act immediately could jeopardize public health, safety, or general welfare, or in situations where a repair is necessary to restore service to a customer, such user may perform repairs to facilities within public rights-of-way, which involve the alteration or disturbance of the surface of such public right-of-way, without prior notification to, or acquisition of, a construction permit from, the city. In such cases, the user shall notify the city manager or his/her designee as promptly as possible after beginning the work, but in no event later than the close of business on the next business day, stating the nature of such repairs and, if not completed, the length of time estimated to complete same. The user shall apply for the required approvals as soon as reasonably practicable, and any work performed that is not consistent with then applicable city standards shall be corrected upon notice thereof from the city.

(e) *Restoration of surface*. Users may excavate public rights-of-way only for the purpose of, and to the extent reasonably required for, the construction, installation, expansion, repair, removal, or maintenance of its facilities. Upon completion of work, the user shall promptly restore the surface of the affected public right-of-way to a condition that equals or exceeds its condition prior to such construction. To such end, the user shall replace excavated areas with the same type of materials as those removed, unless alternate equivalent materials are approved by the city. The restoration shall comply with the following requirements:

(1) Replacing all ground cover equal to or better than the type of ground cover damaged during work, either by sodding or seeding, or natural growth;

(2) Installation of all manholes and handholes as required;

(3) All bore pits, potholes, trenches or any other holes shall be filled in or covered daily, unless other safety requirements are approved by the director of public works;

(4) Leveling of all trenches and backhoe lines;

(5) Restoration of excavation site to city specifications; and

(6) Restoration of all landscaping and other affected structures such as sprinkler systems and mailboxes.

(f) *Maintenance period; delay in construction*. All restoration work shall be maintained by the user to the satisfaction of city for a period of one year from the date of completion of such restoration work. No public right-of-way shall be encumbered by construction, maintenance, removal, restoration, or repair work for a longer period than shall be necessary to execute such work. If there is an unreasonable delay by the user in restoring and maintaining the public right-of-way or restoring such public right-of-way after such excavations, construction, installation or

repairs have been made, the city shall notify the user in writing that if such restoration or maintenance is not performed within five days of receipt of such notice, the city shall have the right to restore or repair the same and to require the user to pay the reasonable cost of such restoration or repair. Furthermore, if restoration is not satisfactory and performed in a timely manner, all work in progress, except that related to the problem, including all work previously permitted but not complete, may be halted and a hold may be placed on any permits not approved until all restoration is complete.

(g) *Routine maintenance*. Routine maintenance on facilities located within public rights-of-way shall be conducted in a manner that is consistent with applicable city regulations governing such work, if any.

(h) *Obstructions to traffic*. Any obstruction of vehicular or pedestrian traffic resulting from construction or repair activities to facilities, other than for emergency repairs, shall require prior notification to the city manager or his/her designee. Any such work shall be performed in a manner calculated to cause the least inconvenience to the city and the public as is reasonably possible under the circumstances. When a user performs or causes to be performed any work over or across a public street or sidewalk, or so closely adjacent thereto as to create hazards for the public or itself, the user shall provide construction and maintenance signs and sufficient barricades and flagmen at such sites as are reasonably necessary to protect the public and the user's equipment and workers. The application of such traffic control devices shall be consistent with the standards and provisions of the latest edition of the state manual on uniform traffic control devices. Appropriate warning lights shall be used at all construction and maintenance zones where one or more traffic lanes are being obstructed during nighttime conditions.

(i) *Closing of streets*. If a user's work requires the obstruction of any street for a period longer than two hours, such obstruction shall be approved by the city manager or his/her designee. The user shall not close any public street, but shall at all times maintain a route of travel along and within any roadway that is within a public right-of-way, provided, however, in cases of an emergency, the city manager or his/her designee may authorize the temporary closing of a public street or sidewalk to allow the user to complete such emergency repairs if, in the opinion of the city manager or his/her designee, such closing is necessary to protect the safety of the general public.

(j) *Construction drawings*. Within 120 days following completion of construction, or within 120 days following any material alteration or modification thereto, the user shall supply the city with a complete set of construction drawings for the work, or for the material alteration or modification thereof, unless the user certifies to the city, in writing, that such construction was completed in accordance with the construction plans filed pursuant to this division, in which case, such construction plans shall be marked accordingly by the city and filed as the "permanent construction drawings." For the purposes hereof, a material alteration or modification of a facility shall be deemed to have occurred if such alteration or modification would render the existing construction drawings inaccurate and/or misleading regarding the location of a structural component thereof. Such drawings shall be of sufficient detail to allow the city to determine the location of the facilities with reasonable accuracy. In lieu of print documents, a user may, upon advance reasonable request, provide such drawings and maps by other mediums, including electronic mediums, provided the city has the capability to access such information.

(Code 1994, § 66-133; Code 2005, § 70-187; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-188. Conservation of public rights-of-way.

(a) To the extent the city may be authorized by state or federal law to do so, and to the extent reasonable under the circumstances then existing, the city may require a user to attach portions of its facilities to other facilities within the public rights-of-way owned and maintained by other persons. A user shall not be required to attach its facilities to the facilities of such other

persons if it is shown that such user would be subjected thereby to increased risks of interruption to its service, to increased liability for accidents, or to unreasonable delays in construction or availability of service, or if the facilities of such other person are not of the character, design, or construction required by, or are not being maintained in accordance with, current practice, or are not available to the user on reasonable terms, including, without limitation, reasonable fees.

(b) Insofar as is practical to do so, users shall use existing facilities in the provision of their services; provided, however, nothing contained herein shall be construed as limiting a user from expanding its facilities to accommodate future growth and development. Users shall provide information to the city relating to the location and/or operation of their facilities or services as may be reasonably necessary for municipal planning purposes.

(Code 1994, § 66-134; Code 2005, § 70-188; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-189. Relocation or removal of facilities.

(a) To the extent the city may be authorized by law to do so, a user may be required to lower, place underground, relocate, or remove any facility within any public right-of-way, without cost to the city, if reasonably necessary, as determined by the city council, to abate a condition actually or potentially dangerous to public health or safety, or as may be reasonably necessary to accommodate the construction, repair, maintenance, removal, or installation of any publicly funded city project within the city in, upon, or under public rights-of-way, including, without limitation, street construction and widening, water, sanitary sewer, storm drains, streetlights, and traffic signal conduits, or any other public facilities in, upon, or under the public rights-of-way. In the alternative, where the city council determines it to be feasible, a user may be allowed to pay the additional costs incurred for the design and/or construction of any such publicly funded city project in a manner that would avoid the necessity of relocation or removal of the facilities. A user shall be provided the opportunity to collaborate in advance with the city and/or propose alternatives in order to minimize cost, better schedule the work, and accommodate suitable refinements and/or joint work with others.

(b) In the event of any such requirement for lowering, placing underground, relocating, or removing facilities as herein provided, the user shall complete same as soon as is reasonably practicable following written notice thereof by the city.

(Code 1994, § 66-135; Code 2005, § 70-189; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-190. Obsolete facilities.

Users shall remove facilities from the public rights-of-way when such facilities are obsolete, are no longer in service, and create either visual blight or a nuisance to the public; provided, however, a user shall not be required to remove any facility for which renovation or restoration is planned by the user, and which renovation or restoration is completed within a reasonable period of time. When permanent structures in public rights-of-way are removed, the city shall be notified in writing of such removal.

(Code 1994, § 66-136; Code 2005, § 70-190; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-191. Bonding.

All users other than governmental units shall comply with all applicable regulations of the city relating to the provision of bonds or other security which may be required in connection with work in public rights-of-way.

(Code 1994, § 66-137; Code 2005, § 70-191; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-192. Temporary rearrangement of aerial wires and cables.

Upon request, a user shall remove or raise or lower its aerial facilities temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting same, excluding requests by the city. The user may require payment in advance. The user shall be given a reasonable amount of advance notice to provide for such rearrangement.

(Code 1994, § 66-138; Code 2005, § 70-192; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-193. Tree trimming.

Users shall comply with all applicable rules and regulations of the city governing the trimming, grooming, or removal of tress or other similar vegetative matter.

(Code 1994, § 66-139; Code 2005, § 70-193; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-194. Erosion and stormwater measures.

Erosion control measures shall be implemented prior to commencement of any work. The user shall comply with stormwater management erosion control that complies with the city, state and federal laws, regulations, and guidelines. Requirements may include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established and barricade fencing around open holes. High erosion areas shall require wire-backed silt fencing.

(Code 1994, § 66-140; Code 2005, § 70-194; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-195. Placement of facilities.

All facilities constructed or installed on or after the effective date of the ordinance from which this division is derived shall be buried underground where possible. Pedestals, junction boxes, metering facilities and similar appurtenances may be placed aboveground. Users shall not place facilities within public rights-of-way in such a manner as to unreasonably interfere with existing electrical, cable, or telecommunications fixtures, water hydrants or mains, or drainage or sanitary sewer facilities, and all such facilities shall be placed in such manner as not to interfere with usual travel or public and/or municipal use of the public rights-of-way. The city shall have the right to direct the location of facilities in the public rights-of-way. The installation, repair, construction, maintenance, and replacement of facilities in the rights-of-way shall be subject to inspection and approval by the city. Users shall cooperate fully with the city in conducting inspections. Users shall promptly perform remedial action required by the city pursuant to such inspection.

(Code 1994, § 66-141; Code 2005, § 70-195; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-196. Line location and identification.

Users shall be responsible for obtaining line locations from the state one-call system, the city, and all affected utilities and others with facilities in public right-of-way, prior to any excavation. Use of the geographic information system or plans of record shall not satisfy this requirement. The user shall be responsible for verifying the location, both horizontal and vertical, of all facilities. When required by the city manager or his/her designee, a user shall verify locations of potential conflicts with existing facilities by pot holing, hand digging, or other similar method, prior to any excavation or boring. Placement of all manholes and/or hand holes must be approved in advance by the city manager or his/her designee. Hand holes or manholes shall not be located in sidewalks unless approved by the city manager or his/her designee. Location flags shall not be removed while facilities are being constructed. All location flags shall be removed during the cleanup process by the user at completion of the work. The user, or his agent, contractor, or subcontractor, shall notify the city manager or his/her designee immediately of any damage to other utilities.

(Code 1994, § 66-142; Code 2005, § 70-196; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-197. Planning for capital improvement projects.

Users shall apprise the city of existing and planned construction, maintenance, and other activities of the user within public rights-of-way. Except for emergencies, users shall coordinate all installations and construction within the public rights-of-way with the city's capital improvement programs. Within 60 days following adoption of each city annual fiscal year budget, the city shall forward, in writing, a list of the improvement projects (including street widening, street overlay, bridge improvement, new street construction, drainage and utility improvement, and park improvement projects) which are included in the adopted budget. Within 60 days following receipt of the city's list of improvement projects for the subsequent fiscal year, each user shall provide a written report to the city identifying and describing generally the existing facilities that are within or cross through the boundaries of each project identified by the city. The city and the user shall provide to each other the names of their respective designated officials who will serve as representatives for coordination of the exchange of information and planning on any such project. Users shall field locate their facilities, and identify same with surface markings, within 15 working days following the city's request therefor.

(Code 1994, § 66-143; Code 2005, § 70-197; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-198. Guarantee of performance.

Except as provided elsewhere in this division, each user, at the time of submission of its initial and each renewal registration application, shall file with the city a guarantee of performance of the user's obligations hereunder, whether to be performed by the user or any other person on behalf of the user, to complete the installation of its facilities within the public rights-of-way, in accordance with the permits and approved plans and specifications therefor. Such guarantee shall be payable to the city, in the amount as set by resolution and printed in Appendix D to this Code ~~of $50,000.00~~; provided, however, in the event a user applies for a permit for work in which the estimated cost of restoration will exceed such amount ~~$50,000.00~~, such user shall file a supplemental guarantee for such additional reconstruction costs. Such guarantee may take the form of a bond, an irrevocable letter of credit, or a statement of fiscal responsibility, as set forth below.

(1) *Bonds*. A corporate surety bond issued by a corporate surety authorized to do business in the state. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety, nor may any intention not to renew be exercised by the surety until 60 days after receipt by the city, by registered or certified mail or written notice, of such intent to cancel or to not renew." The rights reserved to the city with respect to the bond are in addition to all other rights of the city and no action, proceeding, or exercise of a right with respect to such bond shall affect any other rights of the city;

(2) *Letters of credit*.

a. An irrevocable letter of credit, in a form satisfactory to the city manager and the city attorney. The letter of credit shall be issued by a federally insured commercial lending institution with a credit rating of BAA or BBB+ or higher. The federally insured commercial institution on which the irrevocable letter of credit is to be drawn shall be acceptable to the city. The irrevocable letter of credit shall contain the following endorsement:

"At least 60 days' prior written notice shall be given to the city manager by the financial institution of any intention to cancel, replace, fail to renew, or materially alter this irrevocable letter of credit. Such notice shall be given by certified mail to

the city manager and city attorney. The city may draw upon this irrevocable letter of credit by presentation of a draft at sight, accompanied by a written certificate signed by the city manager of the city, certifying that _____ (user) has failed to comply with provisions of ordinances applicable to _____ (user's) use of public rights-of-way within the City of Friendswood";

b. After providing a user with 30 days' advance written notice of any amount due and owing, and the user's failure to pay such amounts, the city may draw upon the irrevocable letter of credit by presentation of a draft at sight, on the lending institution, accompanied by a written certificate signed by the city manager certifying that the user has failed to comply with the provisions of this division; or

c. The user shall structure the irrevocable letter of credit in such a manner that if the city draws upon the irrevocable letter of credit and reduces the amount of available credit to an amount below the required amount ~~$50,000.00~~, the user shall replenish the irrevocable letter of credit to a minimum required ~~of $50,000.00~~ within five calendar days after the available credit is reduced to an amount below the required amount ~~$50,000.00~~. The intent of this section is to ensure that the credit available to the city shall at no time fall below the required amount ~~$50,000.00~~; or

(3) *Statement of fiscal responsibility*. Written evidence, in the form of its most recent audited financial statement, showing assets or reserves sufficient to cover the amount of the guarantee required by this section. If the user's assets or reserves are no longer adequate to comply with the amounts required by this section, the user shall immediately notify the city and shall obtain a bond or letter of credit as set forth above.

The rights reserved to the city with respect to the financial guarantees provided for in this section are in addition to all other rights of the city, whether reserved by this division or otherwise authorized by law, and no action, proceeding, or right with respect to the guarantee shall affect any other right the city has or may have.

(Code 1994, § 66-144; Code 2005, § 70-198; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-199. Insurance and indemnity.

(a) *Insurance*. A user shall procure and maintain insurance in full force and effect at all times while its facilities are located in the public rights-of-way. The insurance shall cover all risks associated with the use and occupancy of such rights-of-way. Coverages shall be on an "occurrence basis." The insurance requirements applicable to a user under this section shall be applicable to all persons performing work within public rights-of-way on behalf of such user unless such person is covered, or named as an additional insured, under the policies of insurance supplied by the user pursuant hereto. If any person other than a user is required to provide such insurance, the provisions referring to a user herein below shall be construed to mean such person.

(1) *Risks and limits of liability*. The insurance, at a minimum, must include the ~~following~~ coverages and limits of liability as set by resolution and printed in Appendix D to this Code.

(2) *Form of policies.* The insurance may be in one or more policies of insurance, the form of which must be approved by the state insurance commission.

(3) *Issuers of policies.* The issuer of any policy shall be authorized to transact insurance business in the state.

(4) *Insured parties*. Each policy shall name the user and the city (and the officers, agents and employees of the city) as insured parties.

(5) *Deductibles*. The user shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claims it may ever have for the deductible amounts against the city, its officers, agents or employees.

(6) *Cancellation*. Each policy shall expressly state that it may not be canceled or nonrenewed unless 30 days' advance notice of cancellation or nonrenewal is given in writing to the city.

(7) *Subrogation*. Each policy shall contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the city, its officers, agents or employees.

(8) *Liability for premium*. If any of the policies referred to above do not have a flat premium rate, and such premium has not been paid in full, such policy shall have a rider or other appropriate certificate or waiver sufficient to establish that the issuer is entitled to look only to the user for any further premium payment and has no right to recover any premiums from the city.

(9) *"Other insurance" clause*. The insurance policy shall provide that the "other insurance" clause does not apply to the city where the city is shown on the policy as an additional insured.

(10) *Delivery of policies*. The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them, together with written proof that the premiums have been paid, shall be deposited by the user with the city secretary prior to commencement of any work. Failure on the part of the user to furnish a new policy or certified copy thereof before the expiration date of any such policy, or failure to obtain a new policy before the date fixed for the cancellation of an existing policy, so that the insurance referred to shall be continuously in effect, shall constitute a violation hereunder.

(11) *Liability of user*. The city's approval, disapproval, or failure to act regarding any insurance supplied by a user shall not relieve such person from full responsibility or liability for damages and accidents arising out of use or occupancy of public right-of-way. Neither bankruptcy, insolvency nor denial of liability by the insurance company shall exonerate the user from liability.

(12) *Self-insurance*. A user may elect to self-insure to provide the insurance coverage required hereunder, subject to the restrictions set forth in this subsection, provided the user submits to the city copies of its certificates of self-insurance from the state department of insurance, and its most recent audited financial statements showing self-insurance reserves or other assets sufficient to pay judgments equal to the limits set forth above. A user shall also provide to the city documentation evidencing its process for reviewing and paying claims. The city shall be protected by a user's self-insurance to the same extent as an additional insured on a policy issued by an insurance company. If a user's self-insurance program ceases, or a user's assets or reserves are no longer sufficient to comply with the above coverage requirements, the user shall immediately notify the city of such lapse of coverage, and the user shall obtain commercial insurance, in accordance with the above requirements, within 30 days following such notice.

(b) *Indemnity*. To the extent permitted by law, each user, and each person performing work within a public right-of-way as a contractor on behalf of a user, shall indemnify and hold the city harmless as set forth below. If any person other than a user is required to provide such indemnity, the provisions referring to a user hereinbelow shall be construed to mean such person. The user shall 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 city's property, equipment, materials, structures, and facilities which are damaged, destroyed, or found to be defective solely as a result of the user's acts or omissions; and

(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, but not limited to, the user, its agents, officers, employees, and subcontractors, and the city, its agents, officers, and employees, and third parties); and/or

b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the officers, agents, and employees of the user, the user's contractors, and the city's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from, the negligent or willful acts or omissions of the user, its officers, agents, employees, and/or subcontractors, in the performance of activities pursuant to this division. This indemnity provision is intended to include liability arising from the city's alleged negligence, but only to the extent such liability arises out of a claim or claims that the city was negligent in authorizing the user to use or occupy the public rights-of-way, in regulating the conduct of the user, or in failing to prevent the user from acting in a negligent or wrongful manner. For purposes of this indemnification provision, acts or omissions of the officer, agents, employees and contractors of the user shall be considered the acts and omissions of the user. The indemnity provision set forth above is solely for the benefit of the city and the user and is not intended to create or grant any rights, contractual or otherwise, to any other person.

(Code 1994, § 66-145; Code 2005, § 70-199; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-200. Revocation or denial of construction permits.

If any provision of this division is not followed, a permit for the construction of facilities may be revoked. If a person has not followed the terms and conditions of this division with respect to work done pursuant to a prior permit, new permits may be denied or additional terms may be required.

(Code 1994, § 66-146; Code 2005, § 70-200; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-201. Appeal from denial or revocation of permit.

Appeals from denials or revocations of permits shall be to the city council. Appeals shall be filed with the city secretary within 15 days from the date of the denial or revocation. A hearing shall be held within 30 days of the date the appeal is filed with the city secretary.

(Code 1994, § 66-147; Code 2005, § 70-201; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-202. Conflicts with existing franchises.

In the event of conflict between the provisions of this division and any franchise or other written authorization heretofore approved by city, the provisions of this division shall control.

(Code 1994, § 66-148; Code 2005, § 70-202; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-203. Notice.

Any notice required to be given by to city hereunder shall be given in writing, and may be effected by:

(1) Personal delivery if delivered to the city manager or his/her designee;

(2) Facsimile or electronic mail, if delivered to the said city manager or his/her designee and to the city secretary; or

(3) United States Mail, postage prepaid, registered or certified, return receipt requested, addressed to the city manager or his/her designee and the city secretary. No notice shall be deemed given until actual receipt by city as hereinabove set forth.

(Code 1994, § 66-149; Code 2005, § 70-203; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-204. Penalties.

(a) *Criminal penalty*. Any person who shall violate any provision of this division shall be deemed guilty of a misdemeanor~~ and, upon conviction thereof, shall be fined in an amount not to exceed $2000.00. Each day of violation shall constitute a separate offense~~. Prosecution for, and imposition of, criminal penalties under this section shall not bar the city from seeking other additional remedies as may be provided in this division, by law, or in equity.

(b) *Civil penalties*. Civil penalties may be imposed for violation of any provision of this division, as follows:

(1) Up to $1,000.00 for each violation, and each day of a continuing violation may be considered a new violation; and/or

(2) Revocation of any or all permits granted to allow work in public rights-of-way, subject to procedural guidelines provided in this division, any agreement which applies to the person subject to the complaint, and subject to any limitation imposed by federal or state law.

(Code 1994, § 66-150; Code 2005, § 70-204; Ord. No. 2000-37, § 3, 9-25-2000)

Chapters 71--73

RESERVED

Chapter 74

TAXATION*

***State law reference**—Taxes to be levied and collected by general laws and for public purposes only, Tex. Const. art. 8, § 3; power authorized by charter to impose taxes and impose charges for delinquency, V.T.C.A., Tax Code § 302.102(b); power of home rule municipality to levy general or special property taxes for lawful purposes, V.T.C.A., Tax Code § 302.001(c); residence homestead exemption, Tex. Const. art. 8, § 1-b; residence homestead exemptions, V.T.C.A., Tax Code § 11.13; municipal sales and use tax act, V.T.C.A., Tax Code § 321.001 et seq.; municipal hotel occupancy tax, V.T.C.A., Tax Code § 351.001 et seq.~~, 25 Tex. Admin. Code §§ 3.161--3.163.~~

Charter reference—Taxation, art. VII; financial matters, § 8.01; budget, § 8.03; purchases, § 8.08; accounting procedure for utilities, § 9.11.

ARTICLE I. IN GENERAL

Sec. 74-1. Additional penalty for collection costs.

The city hereby avails itself of the provisions of V.T.C.A., Tax Code § 33.07, regarding property tax collection costs.

(Code 1974, § 6-3; Code 1994, § 70-1; Code 2005, § 74-1)

Sec. 74-2. Penalty to delinquent taxpayers to defray costs of collecting delinquent property taxes.

(a) The city council hereby adopts an additional 20 percent penalty to defray the costs of collection of all delinquent taxes, penalties and interest which become delinquent on or after February 1 of a year, but not later than May 1 of that year and that remain delinquent as of July 1 of that year, as authorized by V.T.C.A., Tax Code § 33.07, and under preceding state law, for the 2002 tax year, and for each succeeding year thereafter.

(b) The city council hereby adopts an additional 20 percent penalty to defray the costs of collection of all delinquent taxes, penalties and interest which become delinquent on or after July 1 under V.T.C.A., Tax Code § 26.07(f), 26.15(e), 31.03, 31.031, 31.032, ~~or~~ 31.04 or 42.42, as authorized by V.T.C.A., Tax Code § 33.08, and under preceding state law, for the 2002 tax year, and for each succeeding year thereafter.

(Code 1994, § 70-2; Code 2005, § 74-2; Ord. No. 2003-06, §§ 2, 3, 5-19-2003)

Sec. 74-3. Property tax limitation for disabled and/or elderly persons.

The city hereby adopts the property tax limitation authorized by Article VIII, Section 1-b(h), Texas Constitution (Proposition 13) and V.T.C.A., Tax Code § 11.261, on the residential homestead of a person who is disabled or a person who is 65 years of age or older.

(Code 2005, § 74-3; Ord. No. 2005-29, § 1, 11-21-2005)

Secs. 74-4--74-22. Reserved.

ARTICLE II. OCCUPATION TAX*

***State law reference**—Authority to levy one-half of state occupation tax, Tex. Const. art. 8, § 1; occupation tax on oil and gas wells, V.T.C.A., Tax Code § 191.081 et seq.; municipal governing body may impose and collect occupation taxes, V.T.C.A., Tax Code § 302.101; local occupational tax prohibited unless specifically permitted by state law, V.T.C.A., Tax Code § 101.008; occupation tax on coin operated machines, V.T.C.A., Occupations Code § 2153.451.

Sec. 74-23. Annual levy.

There is hereby levied and there shall be collected from every person in the city pursuing any occupation taxed by the general laws of the state an annual occupation tax equal in each instance to one-half of the state occupation tax, which taxes shall be paid annually in advance, except

where otherwise provided by state law, in which event the tax may be paid as is provided by the state law.

(Code 1974, § 11-1; Code 1994, § 70-26; Code 2005, § 74-23)

Sec. 74-24. To whom payable; crediting to general fund.

The occupation taxes levied in section 74-23 are to be paid to the office of the assessor and collector of taxes and by him accounted for and deposited to the credit of a city general fund.

(Code 1974, § 11-2; Code 1994, § 70-27; Code 2005, § 74-24)

Secs. 74-25--74-49. Reserved.

ARTICLE III. IMPACT FEES*

***Editor's note**--Section 2 of Ord. No. 2013-35 adopted October 7, 2013, states: The capital improvements plan, included in a study by James E. Thompson, P.E., entitled "2013 Update Study for Land Use Assumptions Capital Improvements Plan and Impact Fees Water Supply/Distribution and Wastewater Treatment/Collection Systems" is incorporated by reference and attached hereto as Exhibit "A." Such study is on file with the city.

Sec. 74-50. Authority.

The city is authorized to enact this article by V.T.C.A., Local Government Code ch. 395, which authorizes home-rule cities, among others, to enact or impose impact fees on land within their corporate boundaries and in their extraterritorial jurisdictions, and on persons with whom they have a water or sewer service contract, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development; and by the city Charter. The provisions of this article shall not be construed to limit the power of the city to adopt such article pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.

(Code 2005, § 74-50; Ord. No. 2013-35, § 3, 10-7-2013)

Sec. 74-51. 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 impact fee per service unit that may be imposed on new development pursuant to this article, which determination occurs at the time specified in V.T.C.A., Local Government Code § 395.016.

Capital improvements plan means the water and wastewater capital improvements plan adopted by the city council, as may be amended from time to time, that identifies capital improvements or facility expansions for which impact fees may be assessed.

Impact fee has the meaning ascribed to it in V.T.C.A., Local Government Code § 395.001, and shall mean a charge or assessment to be imposed by the city upon new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. The term "impact fee" includes amortized charges, lump-sum charges, impact fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term "impact fee" does not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities, or streets, sidewalks, or curbs if the dedication or construction is required by other valid ordinances of this Code and is necessitated by and attributable to the new

development; lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or other pro rata fees for reimbursement of water or sewer mains or lines extended by the city.

New development means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of the use of land; any of which increases the number of service units.

Plat means the plan or map for the subdivision to be filed for record with the county clerk in the county in which the property is located. The term "plat" includes replat.

Property owner means the owner in fee of a tract or parcel of land upon which new development is to be located or his authorized representative.

Service area means the area within the corporate boundaries and extraterritorial jurisdiction to be served by the capital improvements or facilities expansions specified in the capital improvements plan.

Service unit means a standardized measure of consumption of water and wastewater systems capacity which is equal to the average flow rate for a single-family dwelling unit in the city.

(Code 2005, § 74-51; Ord. No. 2013-35, § 3, 10-7-2013)

Sec. 74-52. Impact fees for new construction.

(a) *Created.* There is hereby created an impact fee as provided by V.T.C.A., Local Government Code ch. 395.

(b) *New development to be charged.* Fees may be charged against new development in the city, including the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land; any of which increases the demand for additional services.

(c) *Use of funds.* The funds collected by the city from such fees shall be used only to pay the costs of constructing capital improvements or facility expansions, including and 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) and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant, not an employee of the city, preparing or updating the capital improvement plan on which fees are based. Funds may also be used for the payment of principal and interest on bonds, notes or other obligations issued by or on behalf of the city to finance the cost of such improvements. The funds may not be used for construction of any improvements not identified in the plan; to repair, operate or maintain existing or new capital improvements; to upgrade, update, expand or replace capital improvements serving existing development in order to meet stricter safety, efficiency, environmental or regulatory standards or to better serve existing developments; to pay administrative and operating costs of the city; or to pay for the cost of preparing the land use assumptions or the capital improvements plan if performed by municipal employees.

(d) *Fees.* The fees to be charged are ~~as follows: ($2,928.00~~ per service unit single-family connection as set by resolution and printed in Appendix D to this Code.

Meter Size and Type		*Service Units*
1"	Simple	1
1 1/2"	Simple	2
1 1/2"	Turbine	2

2"	Simple	3
2"	Compound	3
2"	Turbine	4
3"	Compound	6
3"	Turbine	10
4"	Compound	10
4"	Turbine	17
6"	Compound	20
8"	Compound	32
6"	Turbine	37
10"	Compound	46
8"	Turbine	64
10"	Turbine	100
12"	Turbine	132

A one-inch meter is the smallest acceptable meter. In any situation where a meter smaller than one inch is installed, the one-inch fee will be charged.

(e) *Assessment and payment of impact fees.* The impact fee imposed by this section shall be assessed and collected in full at the time of issuance of the building permit for the service units or at the time the water meter is installed, whichever occurs first, if the lot or tract was platted prior to June 20, 1987. For land platted after June 20, 1987, the impact fees shall be assessed at the time of recordation of the final plat and collected in full at the time of issuance of the building permit for the service units or at the time the water meter is installed, whichever occurs first. Once the fee is assessed and collected, additional impact fees or increases in fees may not be assessed and collected against the lot or tract unless the number of service units to be developed on the lot or tract increases. In such event, the city may increase the assessment and collection of fees to fund new capital improvement in the amount attributable to the additional service units.

(f) *Exemptions.* Impact fees may be assessed but shall not be collected in areas where services are not currently available unless:

(1) The city and the developer enter into a contract for the construction or financing of necessary facilities, which agreement contains provision for crediting such contributions against impact fees or for reimbursement from fees paid by other new developments using the facilities.

(2) The city elects to collect fees and commence construction of necessary facilities within two years and provide services within five years.

(3) The owner voluntarily requests the city to reserve capacity to serve future development and the city and the owner enter into a written agreement regarding the reserve capacity.

(g) *Deposit of fees.* All funds collected under this section shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted. All interest earned in the accounts shall be considered funds of the account.

(h) *Refunds.* Impact fees must be refunded to the record owner of the property with statutory interest under the following circumstances:

(1) On request of the owner of property on which an impact fee was paid, if services are available and the city denies service, or if the city fails to commence construction of new facilities to serve the development or fails to complete such facilities within five years of the time the fee is collected.

(2) If the funds collected are not spent for earmarked facilities within ten years from the date of collection.

(3) Upon completion of the capital improvements for which the fee was collected, the city must recalculate the impact fee based on actual project costs and if the fee collected exceeds the amount paid for the improvements by more than ten percent, the difference must be refunded to the property owner.

(i) *Administrative remedies.* If the city does not perform a duty imposed by V.T.C.A., Local Government Code ch. 395, any person who has paid an impact fee or an owner of land upon which an impact fee has been paid shall present a written request to the city council stating the nature of any unperformed duty on the part of the city and request that it 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. This subsection shall not apply to matters subject to appeal.

(j) *Appeals.* Appeals may be made as follows:

(1) The property owner or applicant for new development may appeal the following decisions to the city council:

a. The applicability of an impact fee to the development;

b. The amount of the impact fee due;

c. The availability or the amount of an offset or credit;

d. The application of an offset or credit against an impact fee due; and

e. The amount of the refund due, if any.

(2) 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 applicable fee schedule or the guidelines established for determining offsets and credits.

(3) The appellant must file a notice of appeal with the city secretary within 30 days following the decision for which the appeal is made. 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 or tap purchase may be processed while the appeal is pending. No person shall have any right to appeal for relief to any court in regard to any matter covered by this article until after such person has exhausted the appeal procedure provided for in this section.

(k) *Updates to plan and revision of fees.* The city shall review the land use assumptions and capital improvements plan for water and sewer facilities at least every five years, the first five-year period which shall commence from the date of adoption of the capital improvements plan referenced in this section herein as required by law. The city council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in V.T.C.A., Local Government Code ch. 395, or any successor statute, either update the fees or make a determination that no update is necessary.

(l) *Impact fees.* Impact fees established by this section 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 the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of the city's comprehensive plan, capital improvements plan, zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

(m) *Waiver of fees.* The city council may waive all or a portion of impact fees from proposed new commercial development due, upon written request by a developer or owner of commercial property subject to the ordinance, following a public hearing, upon finding that such waiver substantially furthers the city's goals of promoting economic development, as may be set forth in the city's goals, policies and regulations. In granting such waiver, the city council shall make findings relating to such purposes and shall take into consideration the extent to which other incentives and waivers have been granted the development pursuant to then existing laws and regulations.

(Code 2005, § 74-52; Ord. No. 2013-35, § 3, 10-7-2013)

Secs. 74-53--74-68. Reserved.

ARTICLE IV. TELECOMMUNICATIONS

Sec. 74-69. Taxation of telecommunication service.

(a) The application of the sales tax exemption provided for in ~~section~~ V.T.C.A., Tax Code 321.210(a), ~~Tax Code, V.A.T.C.S.,~~ is hereby repealed by the city as authorized by ~~section~~ V.T.C.A., Tax Code 321.210(b) thereof.

(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 state legislature.

(Ord. No. 2017-24, § 3, 9-11-2017)

Chapters 75--77

RESERVED

Chapter 78

TELECOMMUNICATIONS

ARTICLE I. IN GENERAL

Secs. 78-1--78-18. Reserved.

ARTICLE II. USE OF RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS*

***State law reference—**Municipal management of public rights-of-way used by telecommunications providers, V.T.C.A., Local Government Code § 283.001 et seq.

Sec. 78-19. Purpose.

(a) *Protection of rights-of-way; neutrality*. The purpose of this article is to establish a competitively neutral policy for the use, by telecommunications providers, of the city's public rights-of-way, and to enable the city to:

(1) Minimize congestion, inconvenience, visual impact, costs, and other adverse effects which would likely result from the unregulated placement of telecommunications facilities within public rights-of-way;

(2) Require, to the extent permitted by law, that telecommunications providers pay fair and reasonable compensation for the use of public rights-of-way;

(3) Promote competition among telecommunications providers and encourage the universal availability of telecommunications services to all residents and businesses of the city;

(4) Conserve the limited physical capacity of such public rights-of-way held in public trust by the city;

(5) Ensure that telecommunications providers having facilities within the city comply with applicable ordinances, rules, and regulations of the city; and

(6) Ensure that the city fairly and responsibly preserves and protects public health, safety, and general welfare.

(b) *Services not regulated*. It is not the policy or intention of this article to prohibit, regulate, license, or franchise the provision of any service within the city, and no provision of this article shall be so construed. Any term or condition contained herein, or in any license ordinance adopted pursuant hereto, shall relate to the rights of a person to make use of the public rights-of-way, not in limitation of any right granted by the state public utility commission, the Federal Communications Commission, or their successors.

(c) *Existing franchise rights preserved*. This article shall not apply to a telecommunications provider operating within the city on the effective date of the ordinance from which this article is derived pursuant to a valid existing franchise ordinance; provided, however, upon the termination of any such franchise, the telecommunications provider to which it applies shall be subject to the provisions hereof in the same manner as any other telecommunications provider. Notwithstanding the foregoing, any telecommunications provider operating within the city on the effective date of the ordinance from which this article is derived pursuant to a valid franchise ordinance may, at such provider's option, apply for the issuance of a license hereunder and the early termination of such franchise. Such franchise shall be deemed terminated upon the effective date of such license. Nothing in this article shall be construed to diminish the right or ability of the city to require any other user of public rights-of-way to secure appropriate city authorization, including, without limitation, cable service providers.

(Code 1994, § 72-26; Code 2005, § 78-19; Ord. No. 99-32, § 2, 10-18-1999)

Sec. 78-20. 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:

Access line means a unit of measurement representing:

(1) Each switched transmission path of the transmission media within the public right-of-way extended to the end-user customer's premises network interface within the city that allows delivery services within the city;

(2) Each termination point or points of a nonswitched telephone or other circuit consisting of transmission media connecting specific locations identified by, and provided to, the end-user for delivery of nonswitched telecommunications services within the city; or

(3) Each loop provided to any person as an unbundled network element, pursuant to an agreement under section 252 of the Federal Telecommunications Act of 1996 (47 USC 252), used for the provision of telecommunications services. Interoffice transport and other transmission media that do not terminate at an end-user customer's network interface device are not access lines that would be separately identified and counted for assessing monthly line fees.

Applicant means a person who files an application with the city, pursuant to section 78-22, to obtain a license to use or place network facilities within the city's public rights-of-way, whether by means of the person's own facilities or by purchase or lease of one or more network facilities from another provider of telecommunications services.

Cable Act means the Cable Communications Policy Act of 1984, 47 USC 532 et seq., as amended.

Cable operator means a person providing or offering to provide "cable service" within the city as that term is defined in the Cable Act.

Cable service shall have the same meaning provided by the Cable Act.

~~*City* means the City of Friendswood, Texas, a home rule municipal corporation.~~

~~*City council* means the governing body of the city.~~

City property means all real property owned by the city, other than public rights-of-way, as that term is defined herein, and all other properties held in a proprietary capacity by the city, which are not subject to right-of-way licensing as provided in this article.

Federal Communication Commission or *FCC* means the federal agency or its successor agency that is the regulatory authority over telecommunications providers.

License fee means the compensation payable to the city by a licensee for the use and occupancy of public rights-of-way.

License ordinance means an ordinance adopted pursuant to this article which grants to a telecommunications provider the authority and license to place, operate, and utilize its network facilities within the public rights-of-way of the city for the purpose of providing telecommunications services.

Licensee means a telecommunications provider that has been issued a license pursuant to a license ordinance.

Network facilities means conduits, ducts, manholes, vaults, tanks, towers, wave guides, optic fiber, microwave dishes, transmitters, antennas and antenna structures, radio equipment, and any associated converters, electrical lines, communications lines, transmission lines, cables, wires, amplifiers, switches, utility equipment, or other such object, device, facility, or appurtenance,

including attachments and encasements therefor, whether underground or overhead, which are designed, installed and constructed within the public rights-of-way for the purpose of producing, receiving, amplifying, switching, transmitting, or distributing communication signals, whether analog or digital, whether for voice, data, or other purposes, and whether by or through "wired" or "wireless" systems, to or from customers, subscribers or locations within the corporate limits of the city. The term "network facilities" does not include airwaves above a right-of-way. The term "network facilities" does not include such facilities to the extent that they are solely used to provide cable services.

~~*Person* means an individual, corporation, association, partnership, joint venture, firm, limited liability partnership, joint venture, joint stock company or association, or other entity.~~

Public right-of-way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property in which the city holds a property interest (fee title, easement or otherwise) or over which the city exercises any rights of management or control, and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of network facilities. The term "public right-of-way" does not include the airwaves above a public right-of-way with regard to wireless telecommunications services.

Public Utility Commission of Texas or *PUC* means the state agency having jurisdiction over telecommunications providers.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the content of the information as sent and received.

Telecommunications provider or *provider* means a person who offers telecommunications services to customers through network facilities located in the public rights-of-way.

Telecommunications services means the provision of telecommunications provided through network facilities, excluding cable services, but which include, without limitation:

(1) Access lines provided to end-users or to other telecommunications companies for the purpose of voice, data, or non-cable video transmission;

(2) Nonswitched telephone circuits consisting of transmission media connecting specific locations identified by, and provided to, the end-user for delivery of nonswitched services within the city;

(3) Switched access lines for the distribution of voice, data, and non-cable video transmission; and

(4) Any other telecommunication services authorized by state or federal law.

Wired telecommunications service means telecommunications services provided through network facilities which transmit and receive sounds, pictures, or signals of any kind by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, and includes both one-way and two-way services.

Wireless telecommunications service means telecommunications services provided through network facilities which transmit and receive sounds, pictures, or signals of any kind by radio or microwave signals between the points of origin and reception of such transmission, and includes both one-way and two-way services.

(Code 1994, § 72-27; Code 2005, § 78-20; Ord. No. 99-32, § 3, 10-18-1999)

Sec. 78-21. Unauthorized use of public rights-of-way.

(a) *Authorization to use public rights-of-way required.* It shall be unlawful for any person to lay, construct, operate, offer for lease, or make available for any use whatsoever, any network facility across, along, over, above, or under any public right-of-way within the limits of the city, for any private or commercial purpose, unless the right to do so has been granted to such person pursuant to a license ordinance adopted by city council in accordance herewith.

(b) *Liability for fees.* Without limitation of other remedies available to the city, persons making use of the public rights-of-way of the city in violation of this article, or otherwise without valid consent of the city, shall be liable for all fees authorized by this article effective as of the date of inception of such use.

(Code 1994, § 72-28; Code 2005, § 78-21; Ord. No. 99-32, § 4, 10-18-1999)

Sec. 78-22. Public rights-of-way use license.

(a) *Application required; contents.* Any person proposing to place network facilities within public rights-of-way shall submit an application to the city. Applications may be filed in the office of the city secretary. An application shall describe in general terms all services the applicant will offer or provide, and shall outline the applicant's proposed network facilities, including a description of the physical characteristics of the network facilities proposed to be installed in the public rights-of-way. The city council may require the following information:

(1) The identity of the applicant and all affiliates of the applicant which may use in any manner the network facilities to provide telecommunications services within the city;

(2) A general description of the principal transmission medium that will be used by the applicant to offer or provide such telecommunications services;

(3) Preliminary engineering plans, specifications, and a network map of planned or projected new network facilities to be located within the city, all in sufficient detail to identify:

a. The location and route requested for the applicant's proposed network facilities;

b. The location of all known overhead and underground public utility, telecommunications, cable, water, sewer, drainage and other facilities in the public rights-of-way along the proposed route; and

c. The specific trees, structures, improvements, facilities, or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate;

(4) If the applicant is proposing to install overhead facilities, evidence that surplus space is available, and, if existing utility poles are to be utilized, evidence that their use is authorized;

(5) If the applicant is proposing to install underground network facilities, evidence of whether surplus duct or conduit space is available, and, if existing ducts or conduits are to be utilized, evidence that their use is authorized;

(6) A preliminary construction schedule and completion dates;

(7) A preliminary traffic control plan;

(8) Information to establish that the applicant will obtain all other governmental approvals and permits prior to construction and operation of the network facilities and prior to offering or providing the telecommunications services;

(9) Whether the applicant intends to provide cable service or other video programming service, such as an open video system, as defined in the Cable Act, together with

sufficient information to determine whether such service is subject to cable franchising under the Cable Act;

(10) A narrative description of the applicant's existing network facilities in the city that the applicant intends to use or lease;

(11) The area or areas of the city the applicant desires to serve and a schedule for build-out to the entire city, if any; and

(12) Such other and further information relating to the use of the public rights-of-way that may be reasonably requested by the city council.

(b) *Standards for approval*. In making its determinations regarding adoption of license ordinances, the city council shall consider the legal authority of the subject applicant to provide telecommunications services within the city, with due regard for applicable federal and state telecommunications laws, regulations, and policies.

(c) *License ordinance*. License ordinances adopted by city council shall be deemed to incorporate all provisions of this article. A license ordinance shall be deemed as authorization for the applicable licensee to use the public rights-of-way for the provision of telecommunications services. No network facility shall be located, or made use of, in any public right-of-way in a manner inconsistent with the provisions of this article and/or the license ordinance. No license ordinance shall be construed to grant access to "city property," as defined herein, unless specifically included therein. No licensee shall use a public right-of-way or allow any other person to use licensee's network facilities in a public right-of-way, except as provided in the applicable license ordinance. Notwithstanding the foregoing, a license ordinance shall not be required for a person engaging solely in the resale of a licensee's services or the provision of services by unbundled network elements obtained from a licensee, provided that the applicable license ordinance authorizes the network facilities involved and the person does not own or operate any network facilities in the public rights-of-way.

(d) *Conditions of license*. The issuance of any license pursuant to this section shall be subject to the following additional standards:

(1) *Interference with public use prohibited*. All licensees shall lay, construct, erect, operate, lease, maintain, repair, and replace their network facilities in such a manner as to not unreasonably interfere with the use of public rights-of-way, public streets and sidewalks, or other public or private ways.

(2) *Compliance with law*. Licensees are explicitly subject to the police powers of the city and the city's rights as a property owner under state and federal laws. All work done by licensees in connection with the construction, expansion, reconstruction, maintenance, or repair of its network facilities in public rights-of-way shall be subject to and governed by all applicable federal, state, and city rules, regulations, laws, and ordinances. The provisions of this section shall apply to all licensees and to any other person owning, operating, or in control of network facilities located within public rights-of-way.

(3) *Construction regulations*.

a. *Excavations*. All excavations and other construction in the public rights-of-way shall be performed in accordance with all applicable state, federal, and city regulations.

b. *Interference with use of property*. All construction within public rights-of-way shall be undertaken so as to minimize interference with the use of public and private property and in accordance with any lawful direction given by the city under the police and regulatory powers of the city.

c. *Construction permits*. Before commencing any work which involves the construction, installation, expansion, repair, removal, or maintenance of network facilities within a public right-of-way, a licensee shall apply for and obtain a construction permit therefor, provided, however, acquisition of construction permits shall not be required for any such work which does not involve the alteration or disturbance of the surface of the right-of-way. Each permit application shall include a written work description, including construction drawings, showing the network facilities' location (or proposed location) and the estimated depth of the network facilities (existing and proposed) in the immediate area of the proposed new construction. Such drawings shall be reviewed by the city engineer and, if disapproved, returned with comments setting forth the reasons for such disapproval. Approvals shall not be unreasonably withheld or delayed. Except as otherwise specifically provided herein, licensees shall not commence any such work until applicable construction permits have been approved therefor. Upon completion of any such work, the licensee shall promptly restore the surface of the affected public right-of-way to a condition which equals or exceeds its condition prior to such construction. To such end, the licensee shall replace excavated areas with the same type of materials as those removed, unless alternate equivalent materials are approved by the city. Any excavated areas showing depressions within one year following such work shall be restored by the licensee. Licensees may excavate public rights-of-way only for the purpose of, and to the extent reasonably required for, the construction, installation, expansion, repair, removal, or maintenance of its network facilities. Review and approval by the city of construction permits as provided herein shall not constitute any representation or warranty regarding the sufficiency of design or construction of the network facilities.

d. *Emergency repairs; restoration of service*. Notwithstanding subsection (d)(3)c of this section, during emergency situations where, in the good faith judgment of a licensee, failure to act immediately could jeopardize public health, safety, or general welfare, or in situations where a repair is necessary to restore service to a customer, licensees may perform repairs to facilities within public rights-of-way which involve the alteration or disturbance of the surface of such public right-of-way, without prior notification to the city. In such cases, the licensee shall notify the director of public works for the city by the close of business on the next business day, stating the nature of such repairs and, if not completed, the length of time estimated to complete same. The licensee shall apply for the required approvals as soon as reasonably practicable, and any work performed that is not consistent with then applicable city standards shall be corrected upon notice thereof from the city.

e. *Routine maintenance*. Routine maintenance on network facilities located within public rights-of-way shall be conducted in a manner that is consistent with then-applicable city regulations governing such work, if any.

f. *Obstructions of traffic*. Any obstruction of vehicular or pedestrian traffic resulting from construction or repair activities of a licensee, other than for emergency repairs, shall require prior notification to the director of public works of the city. Any such work shall be performed in a manner calculated to cause the least inconvenience to the city and the public as is reasonably possible under the circumstances. When a licensee performs or causes to be performed any work over or across a public street or sidewalk, or so closely adjacent thereto as to create hazards for the public or itself, the licensee shall provide construction and maintenance signs and sufficient barricades and flagmen at such sites as are reasonably necessary to protect the public and the licensee's equipment and workers. The application of such traffic control devices shall be consistent with the standards and provisions of the latest

addition of the state manual on uniform traffic control devices. Appropriate warning lights shall be used at all construction and maintenance zones where one or more traffic lanes are being obstructed during nighttime conditions.

g. *Closing of streets*. If a licensee's work requires the obstruction of any street for a period longer than 30 minutes, the closure shall be performed in a manner approved by the director of public works. The licensee shall not wholly close any public street, but shall at all times maintain a route of travel along and within any roadway that is within a public right-of-way, provided that, in cases of an emergency, the director of public works may authorize the temporary closing of a public street or sidewalk to allow the licensee to complete such emergency repairs if, in the opinion of the director of public works, such closing is necessary to protect the safety of the general public.

h. *Construction drawings*. Within 120 days following completion of each segment of its network facilities, or within 120 days following any material alteration or modification thereto, each licensee shall supply the city with a complete set of construction drawings for that segment, or for the material alteration or modification thereof, unless the licensee certifies to the city, in writing, that such construction was completed in accordance with the construction plans filed pursuant to this subsection (d)(3), in which case such construction plans shall be marked accordingly by the city and filed as the "permanent construction drawings." For the purposes hereof, a material alteration or modification of a network facility shall be deemed to have occurred if such alteration or modification would render the existing construction drawings inaccurate and/or misleading regarding the location of a structural component thereof. Such drawings shall be of sufficient detail to allow the city to determine the location of the licensee's network facilities with reasonable accuracy. In lieu of print documents, a licensee may, upon advance reasonable request, provide such drawings and maps by other mediums, including electronic mediums, provided the city has the capability to access such information.

(4) *Conservation of public rights-of-way*.

a. To the extent the city may be authorized by state or federal law to do so, and to the extent reasonable under the circumstances then existing, the city may require a licensee to attach portions of their facilities to other facilities within the public rights-of-way owned and maintained by other persons. A licensee shall not be required to attach its facilities to the facilities of such other persons if it is shown that such licensee would be subjected thereby to increased risks of interruption to its service, to increased liability for accidents, or to unreasonable delays in construction or availability of service, or if the facilities of such other person are not of the character, design, or construction required by, or are not being maintained in accordance with, current practice, or are not available to the licensee on reasonable terms, including, without limitation, reasonable fees.

b. Insofar as is practical to do so, licensees shall use existing network facilities in the provision of their services; provided, however, nothing contained herein shall be construed as limiting a telecommunications provider from expanding its facilities to accommodate future growth and development. Licensees shall provide information to the city relating to the location and/or operation of their network facilities or services as may be reasonably necessary for municipal planning purposes.

(5) *Relocation or removal of facilities*.

a. A licensee may be required to lower, place underground, relocate, or remove any network facility within any public right-of-way, without cost to the city, if reasonably necessary, as determined by the city council, to abate a condition actually or potentially dangerous to public health or safety, or as may be reasonably necessary to accommodate the construction, repair, maintenance, removal, or installation of any city or other governmental entity's publicly funded project within the city in, upon, or under public rights-of-way, including, without limitation, street construction and widening, water, sanitary sewer, storm drains, streetlights, and traffic signal conduits, or any other public facilities in, upon, or under the public rights-of-way. In the alternative, where the city council determines it to be feasible, a licensee may be allowed to pay the additional costs incurred for the design and/or construction of any such public works project in a manner that would avoid the necessity of relocation or removal of the network facilities. A licensee shall be provided the opportunity to collaborate in advance with the city and/or propose alternatives in order to minimize cost, better schedule the work, and accommodate suitable refinements and/or joint work with others.

b. In the event of any such requirement for lowering, placing underground, relocating, or removing network facilities as herein provided, the licensee shall complete same as soon as is reasonably practicable following written notice thereof by the city.

(6) *Timely completion*. If a licensee fails to either:

a. Commence or thereafter diligently prosecute any repair, refilling, lowering, relocation, removal, or other work required by the city; or

b. Diligently complete any work that disturbs a public right-of-way;

the city may cause the work to be done or completed at the expense of the licensee and may recover all such expense from the licensee, together with all costs and reasonable attorney's fees. Notwithstanding the foregoing, a licensee shall be entitled to notice and opportunity to cure during the cure period described and set forth in section 78-25(b), and shall not be liable for any costs under this section unless such licensee falls to timely complete during such cure period.

(7) *Abandonment of obsolete network facilities*. Licensees shall remove network facilities when such network facilities are obsolete, are no longer in service, and either create visual blight or create a nuisance to the public; provided, however, a licensee shall not be required to remove any network facility for which renovation or restoration is planned by a licensee, and which renovation or restoration is completed within a reasonable period of time following abandonment. Further, no network facility, or any material portion thereof, which is being utilized for telecommunications services shall be deemed to be abandoned. When permanent structures in public rights-of-way are removed or abandoned, the city shall be notified in writing of such removal or abandonment. The director of public works may direct such remedial measures as the director may determine are necessary for public safety and the integrity of public rights-of-way.

(8) *Bonding*. A licensee shall comply with all applicable regulations of the city relating to the provision of bonds or other security which may be required in connection with work in public rights-of-way.

(9) *Temporary rearrangement of aerial wires and cables*. Upon request, a licensee shall remove or raise or lower its aerial network facilities temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting same, excluding requests by the city. The licensee may require payment in advance. The licensee shall be given a reasonable

amount of advance notice to provide for such rearrangement, but in no event shall such notice be required to exceed 30 days.

(10) *Tree trimming*. A licensee is authorized to trim trees upon and overhanging public rights-of-way to the extent reasonably necessary to prevent the branches thereof from coming in contact with the licensee's network facilities. At the option of the city, a licensee may be required to conduct tree trimming under the supervision and direction of the city through the city official to whom such duty has been or may be delegated.

(11) *Term*. The term of each license granted pursuant hereto shall be as set forth in the license ordinance, but shall not exceed five years.

(Code 1994, § 72-29; Code 2005, § 78-22; Ord. No. 99-32, § 5, 10-18-1999)

Sec. 78-23. Compensation; books and records.

(a) *Licensee fees for providers of wired telecommunications services*. Licensees using public rights-of-way for the provision of wired telecommunications services shall pay to the city a license fee that is calculated by applying a monthly charge for each access line owned, placed, operated, controlled or maintained by the licensee, during the month to which the licensee fee applies, for use by an end-user or for another provider that uses the licensee's services or network facilities for the provision of telecommunications services within the city. With regard to persons leasing, reselling, or otherwise using licensee's access lines, if the licensee does not have sufficient information to determine the appropriate access line type, and, thus, the appropriate fee rate to apply, then the higher line fee shall apply until such time as the person using the access lines provides to the licensee sufficient written information to determine the correct line fee. Notwithstanding the foregoing, a licensee shall not be liable for underpayment of license fees resulting from the licensee's reliance upon the written information provided by any such person using licensee's service or facilities for the provision of telecommunications services to end-user customers. The license fee payable to the city shall be the sum total of the monthly charges to be applied to access lines, on a calendar month basis, as set by resolution and printed in Appendix D to this Code. ~~follows:~~

~~Monthly Charge (per access line) . . . . $0.94~~

(1) *Payment due dates; calculation report; access lines*. License fees shall be paid quarterly, with such payments due and payable on or before the 45th day following the end of the calendar quarter for which such payments apply. With every quarterly remittance, each licensee shall file a written report showing the number and type of access lines owned or placed and maintained by the licensee within the city that are activated for end-user customers and other telecommunications providers at month's end, for each of the three calendar months to which such remittance applies. Such report shall specifically identify access lines owned, placed, operated, controlled, or maintained by the licensee that are leased and/or used by persons who are not end-user customers. Such report shall show the number of access lines by category, to the extent known. The report shall be used solely for the purpose of verifying the number of the licensee's access lines serving premises within the city.

(2) *Exclusions for certain economically disadvantaged customers*. Lines terminating at customers' premises that are billed as "lifeline," "tel-assistance," or other services similarly discounted for the purpose of advancing universal service to the economically disadvantaged shall not be included in the count of access lines for which the license fee is calculated.

(3) *Leased network facilities*. Notwithstanding any other provision contained in this article to the contrary, a licensee shall not be required to include in its monthly count of, and

shall not be required to remit a license fee to the city based on, access lines that are resold, leased, or otherwise provided to another person if the other person has furnished the licensee with adequate proof that the person will remit directly to the city a license fee based on those leased access lines.

(b) *License fees for providers of wireless telecommunications services*. Licensees using public rights-of-way for the provision of wireless telecommunications services shall pay to the city a license fee that is calculated by applying a monthly charge calculated in accordance with one of the following methods described in this section:

(1) *Per subscriber/customer method*. Licensees may elect to pay a license fee that is calculated by applying a monthly charge for each subscriber/customer within the city that use the licensee's services or network facilities for the provision of telecommunications services. A monthly charge shall be applied for each end-user subscriber/customer having a billing address within the city. The license fee payable to the city shall be the sum total of the monthly charges to be applied to each subscriber/customer, on a calendar month basis, as set by resolution and printed in Appendix D to this Code. ~~follows:~~

~~Monthly fee (per subscriber/customer) . . . . $ 0.94~~

(2) *Gross revenue method*. If the license fee provided for in subsection (b)(1) of this section would result in a fee which exceeds four percent of the applicable licensee's gross revenues from subscribers/customers within the city, such licensee may pay a license fee which equals four percent of the gross revenues received by such licensee from subscribers/customers within the city. For the purposes hereof, the term "gross revenues" shall mean the gross dollar amounts received by the licensee for wireless telecommunications services provided to subscribers/customers with billing addresses in the city, but excluding:

a. The monthly charges collected pursuant to this section;

b. Local, state, or federal taxes collected by the licensee that have been billed to subscribers/customers and separately stated on bills therefor; and

c. Uncollectible revenues.

(3) *Facilities charge method*. A licensee providing wireless telecommunications services within the city, which does not occupy more than 500 linear feet, 200 square feet, or 100 cubic feet of the public rights-of-way for the location of its network facilities, may pay an annual license fee based on the actual network facilities located within such public rights-of-way. Such license fees shall be calculated in accordance with public right-of-way use fee schedules as may be adopted by the city council from time to time and in effect at the time the applicable license ordinance is adopted.

(4) *Payment due dates; calculation report*. License fees shall be paid quarterly, with such payments due and payable on or before the 45th day following the end of the calendar quarter for which such payments apply. With every quarterly remittance, each licensee shall file a written report showing the number of subscribers within the city that are served by the licensee, the gross revenues received by the licensee, or an inventory of network facilities in the city's public right-of-way, as applicable, for each of the three calendar months to which such remittance applies. Such report shall specifically identify any network facilities owned, operated, or maintained by the licensee that are leased and/or used by persons who are not end-users. Such report shall show the number of subscribers of such persons leasing or using such facilities, if any, to the extent known.

The report shall be used solely for the purpose of verifying the license fee payable to the city, as herein provided.

(5) *Exclusions for certain economically disadvantaged customers*. Subscribers that are billed as "lifeline," "tel-assistance," or for other services similarly discounted for the purpose of advancing universal service to the economically disadvantaged shall not be included in the count of subscribers for which the license fee is calculated.

(6) *Leased network facilities*. Notwithstanding any other provision contained in this article to the contrary, a licensee shall not be required to include in its monthly count of subscribers, and shall not be required to remit a license fee to the city based on, subscribers that are served by network facilities resold, leased, or otherwise provided to another person for consideration if:

a. The other person is operating pursuant to a valid license under this article; and

b. The other person has furnished the licensee with adequate proof that the person intends to include its subscribers in its monthly count to the city, the person intends to remit to the city a license fee based on those subscribers, and the city has approved the arrangement.

(c) *License fees for providers not serving customers within the city*. Providers using network facilities within public rights-of-way, but which serve no customers within the city, other than itself, shall pay an annual license fee based on the facilities located within such public rights-of-way, which fees shall be commensurate with the fees paid by providers serving customers within the city. Such license fees shall be calculated in accordance with public right-of-way use fee schedules as may be adopted by the city council from time to time and in effect at the time the applicable license ordinance is adopted. This fee shall be due on or before July 15 of every year during the term of the license, prorated as applicable. A report shall be submitted with each annual payment showing the calculation of the payment, including necessary descriptions of the network facilities, as applicable.

(d) *Reporting requirements*. The forms required to be filed pursuant to this subsection and subsections (a)(1) and (b)(1) of this section shall be accompanied by a written statement, executed by a duly authorized officer or representative of the licensee, certifying that the information contained in such report is true and correct, to the best of the officer or representative's knowledge and belief, after due inquiry. A copy of the completed forms and the accompanying certified statements shall be filed with the city secretary. Such forms shall be deemed confidential to the extent permitted by law. Upon written request, licensees shall verify the information contained in such forms and, upon reasonable advance notice, all noncustomer specific records and other documents required for verification shall be subject to inspection by the city, expressly excluding any records, documents, or other writings the disclosure of which is prohibited by state or federal law.

(e) *Late payments; default*. Payments received after their due date shall incur interest at the rate of ten percent per annum, compounded daily. Notwithstanding the foregoing, failure of a licensee to make a full payment within 30 days following the due date shall constitute an event of default.

(f) *Circumvention of license fees prohibited*. Licensees shall not circumvent payment of license fees by bartering, by transferring rights, or by other means that result in undercounting the number of access lines, or subscribers, as applicable, as required herein. Capacity or services may be bartered if the imputed access lines, or subscribers, are reported in accordance with this article.

(g) *Uncollectibles*. A licensee shall not be obligated to pay the city for any access lines, or subscribers, for which revenues remain uncollectible.

(h) *No release*. No acceptance by the city of any payment by a licensee shall be construed as a release of, or an accord or satisfaction of, any claim that the city might have for further or additional sums payable under the terms of this article or a license ordinance, or for any other performance or obligation of the licensee.

(i) *No other fees*. License fees paid hereunder shall be in lieu of any permit, license, approval, inspection, or other similar fee or charge, including, but not limited to, all general business license fees customarily assessed by the city for the use of the public rights-of-way against persons operating businesses similar to that of licensees. Further, such license fees shall constitute full compensation to the city for all of a licensee's network facilities located within the public rights-of-way, including interoffice transport and other transmission media that do not terminate at an end-user customer's network interface device, even though those types of network facilities are not used in the calculation of a license fee.

(j) *Records*. Licensees shall retain and maintain all records, accounts, and financial and operating reports necessary to establish compliance with the terms of this article, for a period of not less than five years.

(Code 1994, § 72-30; Code 2005, § 78-23; Ord. No. 99-32, § 6, 10-18-1999)

Sec. 78-24. Indemnification and insurance.

(a) *Indemnity*.

(1) To the extent permitted by law, each licensee shall indemnify and hold the city harmless as follows: The licensee shall promptly defend, indemnify, and hold the city harmless from and against all damages, costs, losses, or expenses:

a. For the repair, replacement, or restoration of city's property, equipment, materials, structures, and facilities which are damaged, destroyed, or found to be defective solely as a result of the licensee's acts or omissions; and

b. From and against any and all claims, demands, suits, causes of action, and judgments for:

1. Damage to or loss of the property of any person (including, but not limited to, the licensee, its agents, officers, employees, and subcontractors, city, its agents, officers, and employees, and third parties); and/or

2. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the agents, officers, and employees of the licensee, licensee's subcontractors, city's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from the negligent or willful acts or omissions of the licensee, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this article.

(2) This indemnity provision is intended to include liability arising from the city's alleged negligence, but only to the extent such liability arises out of a claim or claims that the city was negligent in granting this license, in regulating the conduct of licensee under this license, or in failing to prevent licensee from acting in a negligent or wrongful manner. The indemnity provision set forth herein is:

a. Solely for the benefit of the city and the licensee and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity;

b. To the extent permitted by law, any payments made to, or on behalf of, the city under the provisions of this section are subject to the rights granted to licensees under V.T.C.A., Utilities Code §§ 54.204--54.206; and

c. Subject to the continued applicability of the provisions of V.T.C.A., Utilities Code §§ 54.204--54.206, as set forth in subsection (a)(1)b of this section, the provisions of the indemnity shall survive the expiration of this article.

(3) If the authority granted by this article is terminated or is not renewed, and the licensee does not remove its network facilities from the public rights-of-way, the licensee shall continue to indemnify and hold harmless the city pursuant to this section as long as its facilities are located in the public rights-of-way, and for said purpose, this section shall survive this license ordinance.

(b) *Insurance*. Licensees shall procure and maintain, during the term of their licenses, the following insurance coverage, and the respective policies thereof shall cover all risks related to the licensee's use and occupancy of the public rights-of-way and all other risks associated with their license:

(1) Description of insurance coverage and limits shall be set by resolution and printed in Appendix D to this Code.

(2) Other insurance related requirements.

a. The city shall be named as an additional insured, by endorsement, on all applicable insurance policies;

b. Applicable insurance policies shall each be endorsed with a waiver of subrogation in favor of the city;

c. Insurers shall have a rating of B + or better and a financial size of Class VI or better, according to the current year's Best's rating. Each insurer shall be responsible and reputable, must have financial capability consistent with the risks covered, and shall be subject to approval by the city council with regard to conformance with these requirements, which approval shall not be unreasonably withheld;

d. Deductible limits on insurance policies and/or self-insured retention exceeding $50,000.00 shall require approval by the city council;

e. Certificates of insurance shall state that the city shall be notified a minimum of 30 days prior to the insurers' action, in the event of cancellation, nonrenewal, or reduction in policy limits, regarding any policy required hereby;

f. Full limits of insurance required in subsection (b)(1) of this section shall be available for claims arising out of a licensee's applicable license ordinance;

g. Certificates of insurance shall be provided by a licensee to the city prior to the installation, construction, or operation of any network facilities within public rights-of-way; provided, however, any licensee lawfully operating network facilities within public rights-of-way at the time of adoption of such licensee's applicable license ordinance shall provide such certificates of insurance within 30 days following the effective date of such license ordinance. Any failure of the city to request such documentation shall not be construed as a waiver of the insurance requirements specified herein;

h. The city shall be entitled, upon request and without incurring expense, to review the insurance policies (or certified copies thereof), including endorsements thereto, which relate to the insurance requirements specified herein, and, at its discretion, to require proof of payment for policy premiums;

i. The city shall not be responsible for paying the cost of insurance coverage required herein;

j. Notice of any actual or potential claim and/or litigation that would affect insurance coverage required herein shall be provided to the city in a timely manner. In the alternative, a policy may, by endorsement, establish a policy aggregate to establish compliance with the requirements set forth herein;

k. Each insurance policy required herein shall be primary insurance to any other insurance available to the city with respect to any claims arising hereunder;

l. A licensee shall either require its contractors to maintain the same insurance coverage and limits thereof as specified herein or such coverage on the licensee's contractors shall be provided by the licensee; and

m. A licensee may elect to self-insure to provide the insurance coverage required hereunder, subject to the restrictions set forth in this subsection, provided that the licensee submits to the city copies of its certificates of self-insurance from the state department of insurance and of its most recent audited financial statements, showing self-insurance reserves or other assets sufficient to pay judgments equal to the limits set forth above. A licensee shall also provide to the city documentation evidencing its process for reviewing and paying claims. The city shall be protected by a licensee's self-insurance to the same extent as an additional insured on a policy issued by an insurance company. If, during the term of a license granted hereunder, a licensee's self-insurance program ceases, or a licensee's assets or reserves are no longer sufficient to comply with the above coverage requirements, the licensee shall immediately notify the city of such lapse of coverage, and the licensee shall obtain commercial insurance in accordance with the above requirements within 30 days following such notice.

(c) *No right of recovery.* Insurers shall have no right of recovery against the city, it being the intention hereby that the insurance policies required herein shall protect licensees and the city, and shall be primary coverage for all losses covered by such policies. Such policies shall provide that the issuing company waives all right of recovery by way of subrogation or assignment against the city in connection with any damage covered thereby. Companies issuing such policies shall have no recourse against the city for payment of any premiums or assessments, same being at the sole risk of the licensees.

(d) *Lapse of coverage an event of default.* A licensee shall continuously and without interruption maintain in full force and effect the required insurance coverage and limits set forth in this section. Failure to maintain such insurance shall constitute an event of default and the city, at its option, may terminate any license granted pursuant hereto, in accordance with the provisions of section 78-25.

(Code 1994, § 72-31; Code 2005, § 78-24; Ord. No. 99-32, § 7, 10-18-1999)

Sec. 78-25. Default and termination.

(a) *Events of default.* The occurrence of any of the following shall constitute an event of default by a licensee:

(1) Failure of a licensee to comply with any material term, condition, or provision of this article or the license ordinance applicable to such licensee;

(2) Any intentional false statement or misrepresentation as to a material fact by an applicant;

(3) A licensee's loss of or failure to obtain licenses, permits, and certifications lawfully required by any statute, ordinance, rule, or regulation of any regulatory body having jurisdiction over the licensee's operations and to pay all fees associated therewith;

(4) An act or omission of a licensee constituting a knowing or intentional evasion of payment of any fee payable hereunder.

(b) *Cure period*. If a licensee continues to violate or fail to comply with a material term or provision of this article for a period of 30 days following notification in writing by the city to cure such specific alleged violation or failure to comply, then the city may follow the procedures set forth herein to declare that the licensee has terminated all rights and privileges consented to pursuant to this article and the licensee's license ordinance; provided, however, if a licensee is alleged to be in violation of any material provision of this article, other than the payment of a fee due hereunder, and if the licensee commences efforts to cure such alleged violation within 30 days following receipt of written notice thereof and shall thereafter prosecute such curative efforts with reasonable diligence until such curative efforts are completed, then such alleged violation shall cease to exist and no further action shall be taken at that time.

(Code 1994, § 72-32; Code 2005, § 78-25; Ord. No. 99-32, § 8, 10-18-1999)

Sec. 78-26. Transfer of authority.

(a) *Prohibition*. Any right, privilege, and license granted pursuant hereto may not be assigned, in whole or in part, without the prior consent of the city expressed by resolution or ordinance, and then only under such conditions as may therein be prescribed, except as otherwise provided in subsection (d) of this section. No such consent by the city shall be unreasonably withheld, conditioned, or delayed. No assignment in law or otherwise shall be effective until the assignee has filed with the city an instrument, duly executed, reciting the fact of such assignment, accepting the terms hereof and of the license ordinance, and agreeing to comply with all the provisions thereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of a license for the purposes of this article.

(b) *Process*. Upon receipt of a request for consent to an assignment, the city shall diligently investigate the request in a timely manner and place the request on the city council agenda at the earliest practicable time. The city council shall proceed to act on the request within a reasonable period of time.

(c) *Scope of review*. In reviewing a request for assignment, the city may, to the extent permitted by law, inquire into the legal, technical, and financial qualifications of the prospective assignee, and the licensee shall assist the city in so inquiring. The city may condition said assignment upon such terms and conditions as it deems reasonably necessary, provided its approval and any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective assignee, as well as the licensee's compliance with the terms hereof.

(d) *Assignments not requiring approval*. Notwithstanding any other provision contained in this article to the contrary, the prior approval of the city shall not be required for any transfer of ownership or control of a provider's business, except that the provider shall maintain with the city current point of contact information. However, no such assignment shall be effective until the licensee shall have given written notice thereof to the city.

(e) *Release*. Upon receiving the city's consent to an assignment, or, in the event of an assignment qualifying under subsection (d) of this section, upon giving notice under subsection (d) of this section, a licensee shall be relieved of all conditions, obligations, and liabilities arising or which might arise hereunder that are assumed by the assignee.

(Code 1994, § 72-33; Code 2005, § 78-26; Ord. No. 99-32, § 9, 10-18-1999)

Sec. 78-27. Miscellaneous provisions.

(a) *Work by others; construction by abutting owners; alterations to conform with public improvements.*

(1) The city reserves the right to lay and permit to be laid sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done any underground and overhead work, and any attachment, restructuring, or changes in aerial facilities that may be deemed necessary or proper by the city in, across, along, over, or under any public right-of-way occupied by providers, and to change any curb or sidewalk or the grade of any street. In permitting such work to be done, the city shall not be liable to providers for any damages not directly caused by the misconduct or gross negligence of the city; provided, however, nothing herein shall relieve any other person or entity, including any contractor, subcontractor, or agent, from liability for damage to a licensee's facilities.

(2) If during a license term the city authorizes abutting landowners to occupy space over, under, or across the surface of any public right-of-way, such grant to an abutting landowner shall be subject to tile rights herein granted to a licensee. In the event that the city shall close or abandon any public right-of-way, which contains any portion of a licensee's network facilities, any conveyance of land contained in such closed or abandoned public right-of-way shall be subject to the rights of a licensee hereunder and under the licensee's license ordinance.

(3) Providers shall be liable for the acts or omissions of any person used by such providers when such person is involved directly or indirectly in the construction and installation of such providers' network facilities to the same extent as if the acts or omissions of such person were the acts or omissions of the provider.

(b) *Annexation and disannexation.* Within 30 days following the date of passage of any action affecting the annexation of any property to, or the disannexation of any property from, the city's corporate boundaries, the city shall furnish licensees written notice of the action and an accurate map of the city's corporate boundaries showing, if available, street names and number details. For the purpose of compensating the city under this article, a licensee shall start including or excluding access lines or subscribers, as applicable, within the affected area in the licensee's count of access lines or subscribers, as applicable, on the effective date designated by the comptroller of public accounts of the state for the imposition of state local sales and use taxes; but in no case less than 30 days following the date the licensee is notified by the city of the annexation or disannexation.

(c) *Confidential records.* Upon the notification by a licensee to the city of the confidential nature of any information, report, document, or writing, the city shall maintain the confidentiality of such information, report, document, or writing to the extent permitted by law. Upon receipt by the city of requests for the licensee's confidential information, report, document, or writing, the city shall notify the licensee of the request, in writing. Unless otherwise approved in writing by the applicable licensee, the city shall request an attorney general's opinion before disclosing any confidential information, report, document, or writing, and will furnish the licensee with copies of such requests.

(d) *Abandonment of public rights-of-way.* If the city conveys, closes, abandons, or releases its interest in or authority over any public right-of-way containing network facilities installed or operated pursuant to a license ordinance, any such conveyance, closure, abandonment, or release shall be subject to the rights of the licensee under the license ordinance.

(e) *Right to audit.* The city reserves the right to inspect a provider's business records to the extent necessary to ensure compliance with the access line and/or subscriber reporting requirements of this article. Any such review shall be commenced within 90 days following the

filing of a certified report of access lines and/or subscribers. If any such inspection discovers an underpayment due to the city that exceeds five percent of the total amount paid for any quarterly reporting period, then the licensee shall promptly reimburse the city for the actual and reasonable cost of such audit. The provider shall also pay the city all actual amounts of the underpayments as determined by the audit, plus interest as hereinabove provided.

(f) *Force majeure*. Other than for the failure to pay amounts due and payable under this article, a licensee shall not be in default or be subject to sanction under any provision of this article when its performance is prevented by force majeure. Force majeure shall mean an event caused by strike or other labor problem, embargo, epidemic, act of God, fire, flood, adverse weather conditions, or other major environmental disturbance, act of military authority, or war or civil disorder, provided that such causes are beyond the reasonable control and without the willful act, fault, failure, or negligence of the licensee. Performance is not excused under this section following the end of the applicable event of force majeure.

(g) *Controlling law*. This article, and any license issued hereunder, shall be governed by the laws of the state and the United States, and venue for any action hereunder shall be in the county.

(h) *Effective date of license*. Any license granted hereunder shall be effective upon the adoption of the applicable license ordinance and the filing of necessary certificates of insurance as otherwise required herein.

(Code 1994, § 72-34; Code 2005, § 78-27; Ord. No. 99-32, § 10, 10-18-1999)

Chapters 79--81

RESERVED

Chapter 82

TRAFFIC AND VEHICLES*

***State law reference**—V.T.C.A., Transportation Code ch. 1 et seq.; powers of local authorities regarding regulation of traffic, V.T.C.A., Transportation Code § 542.202; limitations on local authorities, V.T.C.A., Transportation Code § 542.203; municipal authority to regulate by traffic control devices, V.T.C.A., Transportation Code § 542.202(a)(1).

ARTICLE I. IN GENERAL

Sec. 82-1. Unreasonable acceleration.

(a) *Definitions*. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Unreasonable acceleration means:

(1) Acceleration which spins a tire or tires resulting in the breaking of traction between a tire or tires and the street surface; and

(2) Acceleration which is accomplished in such a manner as to cause:

a. A squealing or screeching sound by the tires;

b. The throwing of sand or gravel by the tires of the vehicle; or

c. Both.

(b) *Evidence.* The squealing or screeching sounds emitted by the tires, or the throwing of sand or gravel by the tires, or both, shall constitute prima facie evidence of such unreasonable acceleration for purposes of this chapter.

(Code 1974, § 17-1; Code 1994, § 74-1; Code 2005, § 82-1; Ord. No. 2004-23, § 2, 11-1-2004)

State law reference—Reckless driving, V.T.C.A., Transportation Code § 545.401.

Sec. 82-2. Traffic control devices; authority to install.

The city traffic director shall place and maintain official traffic control devices when required under the traffic ordinances of this city to make effective the provisions of such ordinances, and may place and maintain such additional official traffic control devices when he deems such necessary to regulate, warn or guide traffic under the traffic ordinances of this city and state law.

(Code 1994, § 74-2; Code 2005, § 82-2; Ord. No. 300, § 9, 1-9-1978)

State law reference—Power of local authorities to regulate traffic by traffic-control devices, V.T.C.A., Transportation Code § 542.202(a)(1).

Sec. 82-3. Manual and specifications.

All traffic control signs, signals, and devices shall conform to the manual and specifications approved by the state. All signs and signals required in this chapter for a particular purpose shall be uniform as to type and location throughout the city. All traffic control devices erected and not inconsistent with the provisions of state law and this article shall be official traffic control devices.

(Code 1994, § 74-3; Code 2005, § 82-3; Ord. No. 300, § 10, 1-9-1978)

State law reference—Adoption of sign manual, V.T.C.A., Transportation Code § 544.001.

Sec. 82-4. Presumptions of legality.

(a) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this article, such devices shall be presumed to have been placed by the

official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(b) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(Code 1994, § 74-4; Code 2005, § 82-4; Ord. No. 300, § 11, 1-9-1978)

Sec. 82-5. Obedience to traffic chapter required.

It is unlawful for any person to do any act forbidden or fail to perform any act required in this chapter.

(Code 1994, § 74-5; Code 2005, § 82-5; Ord. No. 300, § 6, 1-9-1978)

Sec. 82-6. Emergency and experimental regulations.

(a) The city traffic director is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.

(b) The city traffic director may test traffic control devices under actual conditions of traffic.

(Code 1994, § 74-6; Code 2005, § 82-6; Ord. No. 300, § 3, 1-9-1978)

Sec. 82-7. Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(Code 1994, § 74-7; Code 2005, § 82-7; Ord. No. 300, § 7, 1-9-1978)

Sec. 82-8. Authority of police and fire department officials.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all traffic laws of this city and of the state.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic there or in the immediate vicinity thereof.

(Code 1994, § 74-8; Code 2005, § 82-8; Ord. No. 300, § 5, 1-9-1978)

Sec. 82-9. City traffic director.

(a) The office of city traffic director is hereby established. The city traffic director shall be appointed by the city council and shall exercise the powers and duties with respect to traffic as provided in this chapter.

(b) The city traffic director shall have the general responsibility and authority to determine the installation and proper timing and maintenance of traffic control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the streets and highways of this city, and to cooperate with other officials in the development of ways and means to improve

traffic conditions, and to carry out the additional powers and duties imposed by the ordinances of the city.

(c) Wherever in this chapter the authority is given to the city traffic director to do acts as he deems or, in his opinion, are advisable, necessary, or desirable, such acts shall be based on his observations and studies, according to generally used and accepted traffic control principles or techniques.

(d) Traffic innovations and experiments, however, are not to be inhibited hereby.

(e) Every traffic control device, signal, sign, marker, or marking erected under the direction of the city traffic director shall be presumed to have been installed pursuant to his observations and studies, based on generally used and accepted traffic control principles or techniques.

(f) Any responsibility or authority imposed or conferred on the city traffic director by the provisions of this article may be performed by the city traffic director or by those officers, employees, or agents of the city working under his supervision and control and designated by him to perform the same.

(Code 1994, § 74-9; Code 2005, § 82-8; Ord. No. 300, §§ 1, 2, 4, 1-9-1978)

Secs. 82-10--82-36. Reserved.

ARTICLE II. STOPPING, STANDING, PARKING*

***State law reference**—Municipal authority to regulate standing and parking, V.T.C.A., Transportation Code § 542.202(a)(2); stopping, standing and parking generally, V.T.C.A., Transportation Code § 545.251 et seq.

DIVISION 1. GENERALLY

Sec. 82-37. Authority of city traffic director.

(a) The city traffic director is hereby authorized, on the basis of an engineering and traffic investigation, to prohibit or limit stopping, standing or parking of vehicles at all times or during specified hours.

(b) No prohibition, regulation or limitation relating to stopping, standing or parking imposed under this article or any other ordinance of this city shall be effective unless official traffic control devices are erected and in place at the time of an alleged offense and it shall be the duty of the city traffic director to erect and maintain such devices.

(c) The city traffic director is hereby authorized to determine the location of loading zones and passenger loading zones and shall place and maintain appropriate signs indicating such zones and stating the hours when the regulations regarding to such loading zones are applicable.

(Code 1974, § 17-25; Code 1994, § 74-31; Code 2005, § 82-37; Ord. No. 300, §§ 21, 24, 1-9-1978)

Sec. 82-38. Standing in loading zones.

(a) No person shall stop, stand or park a vehicle for any purpose other than for the expeditious loading or unloading of passengers in any place marked as a passenger loading zone during hours when the regulations applicable to such loading zones are effective, and then only for a period not to exceed three minutes.

(b) No person shall stop, stand, or park a vehicle for any purpose other than for the expeditious unloading and delivery or pickup and loading of property in any place marked as a loading zone during hours when the regulations applicable to such zones are in effect. In no case shall the stop for loading or unloading of property exceed 30 minutes.

(c) The driver of a vehicle may stop temporarily at a loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any vehicle which is waiting to enter such zone to load or unload property.

(Code 1974, § 17-28; Code 1994, § 74-32; Code 2005, § 82-38; Ord. No. 300, §§ 22, 23, 1-9-1978)

Sec. 82-39. Alleys.

No person shall park a vehicle within an alley in such a manner or in such a position as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway or entrance to any abutting property.

(Code 1974, § 17-30; Code 1994, § 74-33; Code 2005, § 82-39)

Sec. 82-40. Bus stands.

No vehicle other than a bus shall be parked in the place so designated as a bus loading zone.

(Code 1974, § 17-31; Code 1994, § 74-34; Code 2005, § 82-40)

Sec. 82-41. Time limit parking.

Except on Sundays or holidays, it shall be unlawful to park any vehicle for a longer consecutive period of time than that designated between the hours of 8:00 a.m. and 6:00 p.m. in any area designated as a limited parking area and so marked.

(Code 1974, § 17-32; Code 1994, § 74-35; Code 2005, § 82-41)

Sec. 82-42. On private property.

It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

(Code 1974, § 17-33; Code 1994, § 74-36; Code 2005, § 82-42)

Sec. 82-43. Restricted and no parking areas.

The parking regulations for specific streets is on file in the city secretary's office.

(Code 1974, § 17-34; Code 1994, § 74-37; Code 2005, § 82-43)

Sec. 82-44. Signs or markings indicating angle parking.

The city traffic director shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal-aid or state highway within this city unless the state commission on highways and public transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(Ord. No. 300, § 20, 1-9-1978; Code 1994, § 74-38; Code 2005, § 82-44)

Secs. 82-45--82-61. Reserved.

DIVISION 2. FIRE LANES

Sec. 82-62. When required.

No building or any type of construction for occupancy shall be constructed in such a manner that any part of the structure is more than 150 feet from a public street or highway; provided, however, that such structure may be erected at a greater distance if the owner designates, constructs and maintains a fire lane or access easement having a minimum width of 20 feet and a minimum height clearance of 20 feet terminating within 100 feet of the furthest point of such

structure; provided, further, however, that no fire lane shall be required for any single-family or duplex building.

(Code 1974, § 7-13(a); Code 1994, § 74-51; Code 2005, § 82-62)

Sec. 82-63. Specifications.

Any fire lane more than 100 feet in length shall either connect at each end to a dedicated street or be provided with a turnaround having a minimum radius of 50 feet, excluding cul-de-sac medians, when measured from curb to curb. All fire lanes shall be maintained and kept in a state of good repair at all times by the owner, manager or person in charge of the premises, and the city shall never be responsible for the maintenance thereof. The fire marshal or his authorized representative is hereby authorized to designate adequate fire lanes and/or turnarounds to any building when deemed necessary for fire department access in the event of fire in such building.

(Code 1974, § 7-13(b); Code 1994, § 74-52; Code 2005, § 82-63)

Sec. 82-64. Markings.

(a) *Signs*.

(1) The owner, manager, or person in charge of any building, for which fire lanes have been approved by the fire marshal or his authorized representative, shall post and maintain appropriate signs in conspicuous places along such fire lanes stating: "No Parking--Fire Lane." Such signs shall be 12 inches wide and 18 inches high, with a companion sign 12 inches wide and six inches high stating: "Tow-Away Zone."

(2) Any "No Parking--Fire Lane" or "Tow-Away Zone" sign shall be painted on a white background with symbols, letters and borders in red, using not less than two-inch lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches above finished grade. Signs shall be spaced no more than 30 feet apart. Signs may be installed on buildings, walls or fences, as approved by the fire marshal.

(3) Where the placement of such signs is not applicable or when, in the opinion of the fire marshal or his representative, such signs would cause a burden on the management, curb markings or striping may be used.

(b) *Curb markings/striping*. Any "No Parking--Fire Lane" or "Tow-Away Zone" curb markings or striping shall be painted on a red background, with symbols and letters in white. Such lettering shall be a minimum of four inches in height at 30-foot intervals on the red background markings along both sides of the fire lanes. Such lettering shall state: "No Parking--Fire Lane--Tow-Away Zone." Fire lanes marked on pavement surfaces shall be marked by lines of red traffic paint 12 inches in width to show the boundaries of the lane. Where a curb is available, the striping shall be in the vertical face of the curb.

(Code 1994, § 74-53; Code 2005, § 82-64; Ord. No. 2002-19, § 22, 11-18-2002)

Sec. 82-65. Destruction of fire lane or tow-away sign.

It is hereby declared unlawful for any person, without lawful authority, to attempt to or in fact alter, destroy, deface, injure, knock down, or remove any sign designating a fire lane or tow-away zone erected under the terms of this division.

(Code 1974, § 7-13(d); Code 1994, § 74-54; Code 2005, § 82-65)

Sec. 82-66. Abandonment or closing.

No owner, manager or person in charge of any premises served by a required fire lane shall abandon or close such fire lane without written permission of the city fire marshal.

(Code 1974, § 7-13(e); Code 1994, § 74-55; Code 2005, § 82-66)

Sec. 82-67. Parking prohibited.

(a) No person shall park, place, allow, permit, or cause to be parked, placed or remain unattended, any motor vehicle, trailer, boat or similar obstruction within or upon an area designated as a fire lane and marked by an appropriate marking.

(b) Any motor vehicle, trailer, boat or similar obstruction found parked or unoccupied within an area designated as a fire lane as required by this division is hereby declared a nuisance per se and any such motor vehicle, trailer, boat, or similar obstruction parked or unoccupied in such manner as to obstruct, in whole or in part, any such fire lane shall be prima facie evidence that the registered owner unlawfully parked, placed or permitted to be parked or placed such obstruction within a fire lane.

(c) The records of the state highway department or the county highway license department showing the name of the person to whom the state highway license or boat or trailer license is issued shall constitute prima facie evidence of ownership by the named person.

(Code 1974, § 7-13(f); Code 1994, § 74-56; Code 2005, § 82-67)

Sec. 82-68. Modifications to requirements of division.

The fire marshal shall have the power to modify any of the provisions of this division upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this division, provided that the spirit of this division shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the fire marshal thereon shall be entered upon the records of the city and a signed copy shall be furnished to the applicant.

(Code 1974, § 7-13(g); Code 1994, § 74-57; Code 2005, § 82-68)

Sec. 82-69. Enforcement; issuance of citations; impoundment of obstructions.

(a) The fire marshal or any member of the fire marshal's office designated by the fire marshal, or the chief of police or any member of the police department designated by the chief of police, is hereby authorized to issue parking citations for any motor vehicle, trailer, boat or similar obstruction found parked or unattended in or upon a designated fire lane and may have such obstruction removed by towing it away. Such vehicle or obstruction may be redeemed by payment of the towing and storage charges.

(b) No parking citation shall be voided nor shall the violator be relieved of any penalty assessed by a judge of the municipal court for any provision of this division by the redemption of the obstruction from the storage facility.

(Code 1974, § 7-13(h); Code 1994, § 74-58; Code 2005, § 82-69)

Sec. 82-70. Submission of plats; duties of contractors.

(a) Prior to the issuance of a building permit, plats with designated fire lanes shall be submitted to the building inspection department for review by the fire marshal, who then will approve or disapprove the designated fire lanes and indicate the needed signs and pavement markings. One of these plats shall be retained by the fire marshal.

(b) The contractor or person in charge of any construction site for commercial, industrial, mercantile, educational, institutional, assembly, hotel, multifamily dwelling, or mobile home park occupancies shall provide and maintain during construction an approved all-weather fire lane, not less than 20 feet in width, as shown on approved plats. Final paving of such fire lane shall be completed prior to the issuance of any certificate of occupancy.

(Code 1974, § 7-13(i); Code 1994, § 74-59; Code 2005, § 82-70)

Sec. 82-71. Penalties for violation of division.

Any person who shall violate any provisions of this division or fail to comply therewith, or who shall violate 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, or any certificate or permit issued 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, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than $20.00 nor more than $200.00.

(Code 1974, § 7-13(j); Code 1994, § 74-60; Code 2005, § 82-71)

Secs. 82-72--82-100. Reserved.

ARTICLE III. SPECIFIC STREET REGULATIONS*

***State law reference**~~— Municipal restrictions on use of state highways, 25 Tex. Admin. Code §§ 25.601--25.603;~~ Municipalities may alter speed limits subject to state law requirements, V.T.C.A., Transportation Code § 542.202(a)(12); municipal authority to designate yield intersections, V.T.C.A., Transportation Code § 542.202(a)(8); local authority to regulate or prohibit turning, V.T.C.A., Transportation Code § 542.202(a)(7); municipal regulation of loads and equipment, V.T.C.A., Transportation Code § 621.303.

Sec. 82-101. Speed regulations; state laws applicable.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within this city except where the city traffic director, upon the basis of an engineering and traffic investigation, determines that other speed limits shall be applicable on specified streets or in certain areas, in which event any speed in excess of the limits specified by the city traffic director, when signs are in place giving notice of the speed limit, shall be prima facie evidence that the speed is not reasonable and prudent and that it is unlawful.

(Code 1994, § 74-96; Code 2005, § 82-101; Ord. No. 300, § 14, 1-9-1978)

Sec. 82-102. Authority of city traffic director.

(a) Upon the basis of an engineering and traffic investigation, the city traffic director may decrease maximum speed limits at intersections and outside urban districts and he may increase limits within urban districts.

(b) Upon the basis of an engineering and traffic investigation, the city traffic director shall determine the maximum speed limits on arterial streets.

(c) Speed limits established pursuant to this section shall be applicable at all times, unless specific times of application are indicated by official traffic control devices.

(d) The list of speed limits for specific streets is on file in the city secretary's office.

(Code 1994, § 74-97; Code 2005, § 82-102; Ord. No. 300, § 15, 1-9-1978)

Sec. 82-103. Stop and yield intersections.

(a) The city traffic director is hereby authorized to erect and maintain stop signs, yield signs or other official traffic control devices to designate through streets or to designate intersections or other roadway junctions.

(b) The lists of street intersections designated as stop or yield intersections for which signs have been erected are on file in the city secretary's office.

(Code 1974, §§ 17-6, 17-8; Code 1994, § 74-98; Code 2005, § 82-103; Ord. No. 300, § 18, 1-9-1978)

Sec. 82-104. Gross weight limits.

The city traffic director is hereby authorized, on the basis of an engineering and traffic investigation, to erect and maintain traffic control devices on any streets or parts of streets to impose gross weight limits.

(Code 1994, § 74-99; Code 2005, § 82-104; Ord. No. 300, § 25, 1-9-1978)

Sec. 82-105. Excluding specified classes of traffic.

The city traffic director is hereby authorized, on the basis of an engineering and traffic investigation, to determine and designate those heavily traveled streets upon which shall be prohibited any class or kind of traffic which is found to be incompatible with the normal safe movement of traffic and shall erect appropriate traffic control devices.

(Code 1994, § 74-100; Code 2005, § 82-105; Ord. No. 300, § 26, 1-9-1978)

Sec. 82-106. Restrictive direction of movement on one-way streets and alleys.

The city traffic director is hereby authorized to:

(1) Determine and designate one-way streets or alleys and shall place and maintain official traffic control devices giving notice thereof. No such designation shall be effective unless such devices are in place.

(2) Determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period of the day and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The city traffic director may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

(Code 1994, § 74-101; Code 2005, § 82-106; Ord. No. 300, § 17, 1-9-1978)

Sec. 82-107. Crosswalks, safety zones and traffic lanes.

The city traffic director is hereby 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 traffic lanes upon the roadway of any street or highway where in his opinion a regular alignment of traffic is necessary.

(Code 1994, § 74-102; Code 2005, § 82-107; Ord. No. 300, § 12, 1-9-1978)

Sec. 82-108. U-turns and other turning restrictions.

The city traffic director is authorized to:

(1) Place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than prescribed by law.

(2) Determine those intersections at which drivers of vehicles shall not make a right turn, left turn or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event such hours shall be plainly indicated on the signs or they may be removed when such turns are permitted.

(Code 1994, § 74-103; Code 2005, § 82-108; Ord. No. 300, § 16, 1-9-1978)

Sec. 82-109. Use of coasters, roller skates and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar vehicle shall go upon any roadway except while crossing a street in a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable.

(Code 1994, § 74-104; Code 2005, § 82-109; Ord. No. 300, § 8, 1-9-1978)

Sec. 82-110. No wake on flooded street.

(a) It shall be unlawful for any person to operate a motor vehicle or a boat on a flooded street, highway, alley, or parking lot, whether publicly or privately owned, in such manner as to increase the level of floodwaters to a level which causes, or could be reasonably expected to cause, damage to other vehicles, adjacent real property, or improvements located on adjacent real property.

(b) It shall be an affirmative defense to a violation under subsection (a) of this section that the operator of the motor vehicle or boat was operating same during a bona fide public emergency necessitating the use of speed otherwise in violation hereof.

~~(c) Penalty. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $2,000.00. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.~~

(Code 1994, § 74-105; Code 2005, § 82-110; Ord. No. 2002-20, §§ 1--3, 11-18-2002)

Chapters 83--85

RESERVED

Chapter 86

UTILITIES*

***Charter reference**—Utilities, art. IX; accounts of utilities, § 9.11; franchises, art. IX; sales of utility services, § 9.12.

State law reference—Municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code § 13.042(a); municipal utility systems, general powers, V.T.C.A., Local Government Code ch. 551 et seq.~~§ 402.001 et seq.~~

ARTICLE I. IN GENERAL

Sec. 86-1. Security deposits.

(a) Security deposits for water, sewer and/or garbage collection service shall be as set by resolution and printed in Appendix D to this Code.

(b) Funds submitted to the city as a security deposit shall be returned to the customer after the expiration of two years from the date such deposit is made, provided that such customer seeking a refund has not been delinquent on a payment for water, sewer and/or garbage collection for the preceding two-year period. The city may waive the requirement of a security deposit for new customers as set forth in this section upon receipt of evidence that such customer has not been delinquent in the payment of water, sewer and/or garbage collection services during such preceding two-year period (or 12 preceding utility billing periods) to the suppliers of such services. In addition, new customers with prior history with the city within the preceding five years who were not delinquent on payments for water, sewer and/or garbage collection services may also have such security deposits waived.

(Code 1974, § 18-12; Code 1994, § 78-1; Code 2005, § 86-1; Ord. No. 91-9, § 2, 2-25-1991; Ord. No. 2013-43, § 3, 12-2-2013)

Sec. 86-2. Service fees.

The following fees are hereby established against applicable persons to reimburse the city for administrative costs incurred as a result of the occurrences described:

(1) *Returned checks*. A fee set by resolution and printed in Appendix D to this Code shall be assessed for each returned check.

(2) *Disconnects and reconnects*. A fee set by resolution and printed in Appendix D to this Code shall be assessed for each disconnect/reconnect of water and/or sewer service or discontinuance/restoration of garbage collection service unless the disconnect/discontinuance was performed at no fault of the customer.

(3) *Late payment*. An administrative fee equal to ten percent of the unpaid balance shall be assessed each month for delinquent water, sewer and garbage collection service fees.

(4) *Unauthorized connection or tampering*. A service fee shall be assessed for the consumption of, or damages resulting from, unauthorized connection, tampering or theft of water, sewer or garbage collection services in the amount set by resolution and printed in Appendix D to this Code plus the actual costs of the services consumed and/or actual costs of repair of damages.

(5) *Meter testing*. Each customer shall be entitled to one free meter test each calendar year. For all meter tests beyond once each calendar year, a service fee equal to the actual charge billed by the vendor for such test shall be assessed.

(6) *Same day service connection.* A same day service connection fee is set by resolution and printed in ~~hereby fixed pursuant to~~ Appendix D to this ~~of the~~ Code ~~of Ordinances~~ and represents the administrative and operating cost to the city for same day processing a

new utility application, generating and completing service initiation. The fee will be assessed and paid in full upon customer request through completion of an application for utility service.

(7) *Meter replacement.* A meter replacement fee is set by resolution and printed in ~~hereby fixed pursuant to~~ Appendix D to this ~~of the~~ Code ~~of Ordinances~~ and represents the administrative and operating cost to the city for customer requested replacement of a utility meter.

(8) *Utility meter removal.* A meter removal/pulled meter service fee is set by resolution and printed in ~~hereby fixed pursuant to~~ Appendix D to this ~~of the~~ Code ~~of Ordinances~~ and represents the administrative and operating cost to the city for removal of a utility meter due to nonpayment of two or more consecutive billed consumption periods.

(9) *Proof of residency.* A printing service fee is set by resolution and printed in ~~hereby fixed pursuant to~~ Appendix D to this ~~of the~~ Code ~~of Ordinances~~ and represents the administrative and operating cost to the city for providing customer requested proof of residency documentation.

(Code 1994, § 78-2; Code 2005, § 86-2; Ord. No. 91-9, § 3, 2-25-1991; Ord. No. 2013-43, § 4, 12-2-2013)

Sec. 86-3. Discontinuance of service for nonpayment.

The city manager may direct the discontinuance of water, sewer and/or garbage collection service to any customer of the city upon the failure of any such customer to remit to the city timely payment for water, sewer or garbage collection services, or to timely remit to the city a service fee assessed pursuant to this chapter. In no event shall any such service be discontinued until notice of intent to do so is served upon such customer at least ten days prior to the date such service is proposed to be discontinued. Such notice shall contain the words "termination notice" or similar language prominently displayed on the notice. The notice shall apprise the customer of an officer or employee of the city to whom direct inquiries regarding payment may be made, or to whom such customer may present evidence of error in the justification for the proposed discontinuance of service. The office address and telephone number of such officer or employee shall be included in the notice. Such notice shall be deemed given by depositing such notice as first class matter in the United States Mail, postage prepaid; by hand delivery; or by posting such notice at a conspicuous location on the property where the service is provided. Notwithstanding the foregoing, if delivery of such notice is by mail and the tenth day following the depositing of notice falls on a Saturday, Sunday, or legal state or national holiday, such service shall not be discontinued until the first working day following such Saturday, Sunday, or legal state or national holiday.

(Code 1994, § 78-3; Code 2005, § 86-3; Ord. No. 91-9, § 1, 2-25-1991)

Sec. 86-4. Water and sewer service fees for nonresident customers.

(a) The rates for water and sewer system services to be charged to customers located outside the city's corporate limits shall be 1 1/2 times that charged to customers located inside the city's corporate limits. Notwithstanding the foregoing, customers located outside the city's corporate limits shall be billed at the same rates as those charged customers inside the city's corporate limits if:

(1) Such services are provided pursuant to an interlocal cooperation agreement and the interlocal cooperation agreement does not provide for different rates; or

(2) Such services are provided pursuant to an agreement entered into prior to the effective date of the ordinance from which this section is derived.

Such out of city customer rates shall be calculated by multiplying the base rates heretofore approved by city council, as set forth in Appendix D to this Code, by 1.5.

(b) The rates charged to nonresident water and sewer customers set forth in subsection (a) of this section shall not apply to entities engaged in nonprofit enterprises as that term is defined in 26 USC 501, as amended, which can demonstrate satisfactory proof of such nonprofit status. Such nonprofit customers will be charged at the standard rate charged to resident water and sewer customers.

(c) The fee schedule approved and adopted in subsection (a) of this section shall apply to all billings for water and sewer service beginning after the July 1, 2002.

(Code 1994, § 78-4; Code 2005, § 86-4; Res. No. R2002-24, §§ 1--3, 7-1-2002)

Sec. 86-5. Connection to public water system.

(a) Every lot, piece or parcel of real property, home, building or structure where a main or lateral of the city's public water system is laid and maintained within 200 feet of the boundary line, in the case of real property, or structure, in the case of improvements, shall be connected to the public water system of the city. After such connection is established, the utilization of any private well, pump or other means used for the extraction of groundwater to the property or improvements shall be discontinued, and no connections may be established for the utilization of any private well, pump or other means used for the extraction of groundwater to the property or improvements.

(b) Voluntary disconnection from the public water system of the city is not allowed.

(c) The rules and regulations outlined in subsection (a) of this section shall not apply to municipal water wells owned and operated by the city, nor shall such rules and regulations apply to any private well, pump or other groundwater extractive equipment determined to be in operation on or before October 1, 2012.

(d) Nothing contained herein shall be construed so as to constitute an exemption or waiver of the rules and regulations, if any, which may be imposed by the Harris-Galveston Subsidence District.

(Code 2005, § 86-5; Ord. No. 2012-23, § 2, 10-1-2012)

Secs. 86-6--86-26. Reserved.

ARTICLE II. WATER*

***State law reference**—Water systems in home rule municipalities, V.T.C.A., Local Government Code § 552~~402~~.017.

DIVISION 1. GENERALLY

Sec. 86-27. Succession to powers of water control and improvement or supply district; statute adopted.

The provisions of V.T.C.A., Local Government Code §§ 43.074, 43.075 and 43.081 are adopted and made applicable to the city and to all water control and improvement districts and fresh water supply districts situated in whole or in part within the city.

(Code 1974, § 18-1; Code 1994, § 78-31; Code 2005, § 86-27)

State law reference—Abolition of water-related special district created wholly in municipality, V.T.C.A., Local Government Code § 43.074; abolition of, or division of functions of certain water-related special districts, V.T.C.A., Local Government Code § 43.075; continuation of certain water boards, V.T.C.A., Local Government Code § 43.081.

Sec. 86-28. Ratification of prior ordinances.

All ordinances adopted by the city council making or having the effect of making the provisions of V.T.C.A., Local Government Code §§ 43.074, 43.075 and 43.081, applicable to the city are hereby ratified and approved.

(Code 1974, § 18-2; Code 1994, § 78-31; Code 2005, § 86-28)

Sec. 86-29. Drought contingency plan.

(a) *Declaration of policy, purpose and intent.* In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city hereby adopts the following drought contingency plan (the "plan"), same being a set of regulations and restrictions governing the delivery and consumption of water.

(b) *Public involvement.* Opportunity for public input into preparation of the plan was provided by the city. Notice was placed in the local newspaper and on the city's website notifying the public of the plan's availability for public review and comment.

(c) *Public education.* The city will periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of letters, utility bill inserts, newsletter, website, press releases and/or media, as methods to be used to provide information to the public about the plan.

(d) *Coordination with regional planning groups.* The service area of the city is located within the Houston Region (H) and the city has provided a copy of this plan to the Houston Region (H).

(e) *Authorization.* The city manager, or his/her designee, is hereby authorized and directed to implement the applicable provisions of this plan upon his determination that such implementation is necessary to protect public health, safety, and welfare. The city manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as directed in this plan.

(f) *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.

(g) *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:

Aesthetic water use means water use for ornamental or decorative purposes, such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use means water use that is integral to the operations of commercial and nonprofit establishments and governmental entities, such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person, company, or organization using water supplied by the city.

Domestic water use means water use for personal needs, or for household or sanitary purposes, such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even-numbered addresses means street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6 or 8, and locations without addresses.

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 of medians.

Nonessential water use means water uses that are not essential or required for the protection of the public, health, safety, and welfare, including, but not limited to:

(1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided for under this plan;

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(3) Use of water to wash down any sidewalk, walkway, driveway, parking lot, tennis court, or other hard-surfaced area;

(4) Use of water to wash down buildings or structures for purposes other than for immediate fire protection, or for flushing gutters or permitting water to run or accumulate in any gutter or street;

(5) Use of water to fill, refill or add to any indoor or outdoor swimming pool or Jacuzzi-type pool;

(6) Use of water in a fountain or pond for aesthetic or scenic purposes, except where necessary to support aquatic life;

(7) Failure to repair a controllable leak; and

(8) Use of water from hydrants for construction purposes or any other purpose other than firefighting.

Odd-numbered addresses means street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7 or 9.

(h) *Triggering criteria for initiation and termination of drought response stages; responses.* The city manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis, determine when conditions warrant initiation or termination of each stage of the plan, and implement necessary action as set forth herein. Public notification of an initiation, or determination of drought response stages, shall be by a means described in subsection (c) of this section.

(1) *Stage 1--Mild water shortage conditions.*

a. *Requirements for initiation.* Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses as defined in this section, when one or a combination of the following criteria occurs:

1. Condition 1: When total daily water demand equals or exceeds 65 percent of the current available system operating capacity for three consecutive days.

2. Condition 2: When total daily water demand equals or exceeds 81 percent of the current available system operating capacity on a single day.

b. *Requirements for termination*. Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

c. *Response*. The goal of the mild water shortage condition response is to achieve a voluntary 20 percent reduction in total water use and/or daily water demand.

d. *City supply management measures*. Measures to be implemented directly by the city to manage limited water supplies and/or reduce water demand: Reduce or discontinue flushing of water mains.

e. *Voluntary water use restrictions*.

1. Water customers are requested to voluntarily limit the irrigation of landscaped areas to even-numbered days of the month for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and odd-numbered days of the month for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of 12:00 midnight and 10:00 a.m., and 8:00 p.m. to 12:00 midnight, on designated watering days.

2. All operations of the city shall adhere to water use restrictions prescribed in subsection (h)(1)e.1 of this section, except that medians irrigation shall be every other day.

3. Water customers are requested to practice water conservation and to minimize or discontinue water use for nonessential purposes (subsection (g) of this section, definitions).

(2) *Stage 2--Severe water shortage conditions.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain nonessential water usages for Stage 2 of this plan when one or a combination of the following criteria occurs:

1. Condition 1: When total daily water demand equals or exceeds 80 percent of the available system operating capacity for three consecutive days.

2. Condition 2: When total daily water demand equals or exceeds 90 percent of the current available system operating capacity on a single day.

b. *Requirements for termination*. Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

c. *Response*. The goal of the severe water shortage condition is to achieve an 18 percent reduction in total water use and/or daily water demand and activate Stage 1.

d. *City supply management measures*. Measures to be implemented directly by the city to manage limited water supplies and/or reduce water demand:

1. Reduce or discontinue flushing of water mains;

2. Reduce or discontinue irrigation of public landscaped areas.

e. Mandatory water use restrictions. It shall be unlawful for any person to cause or permit the use of water in violation of the following water use restrictions during a severe water shortage condition:

1. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to even-numbered days with no watering on Sundays for any reason, for customers with street addresses ending in an even number

(0, 2, 4, 6 or 8), and on odd-numbered days of the month, with no watering on Sundays for any reason, for water customers with street addresses ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m., and between 8:00 p.m. and 12:00 midnight, on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a faucet filled bucket or watering can of five gallons or less, or by a drip irrigation system.

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or hand-held hose equipped with a positive shutoff nozzle. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public are contingent upon frequent vehicle cleaning, such as garbage trucks and vehicles used to transport food and perishables.

3. Use of water to fill, refill or add to any indoor or outdoor swimming pool, wading pool, or Jacuzzi type pool is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight.

4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountain or pond is equipped with a recirculating system.

5. Use of water from hydrants shall be limited to firefighting activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under a special permit from the city.

6. Use of water for irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight. However, if a golf course utilizes a water source other than the potable water provided by the city, the facility shall not be subject to these regulations. The use of gray water, recycled or nonpotable water is permissible.

7. The following uses of water are defined as nonessential and are prohibited:

   (i) Washing down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

   (ii) Washing down buildings or structures for purposes other than immediate fire protection;

   (iii) Use of water for dust control;

   (iv) Flushing of gutter or permitting water to run or accumulate in any gutter or street;

   (v) Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak;

   (vi) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;

(vii) Washing any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(viii) Filling or refilling or adding to any indoor or outdoor swimming pool, wading pool or Jacuzzi-type pool;

(ix) Filling or refilling or adding to any fountain or pond for aesthetic or scenic purposes, except where necessary to support aquatic life; and

(x) Except as otherwise specifically authorized herein, use of water from hydrants for construction purposes or any other purposes other than firefighting.

(3) *Stage 3--Emergency water shortage conditions.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions for Stage 3 of this plan when the city manager, or his/her designee, determines that a water supply emergency exists based on:

1. Condition 1: Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or

2. Condition 2: Natural or manmade contamination of the water supply source; or

3. Condition 3: When total daily water demand equals or exceeds 91 percent, and/or the system pressure falls below 25 pounds per square inch (25 psi).

b. *Requirements of termination.* Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist.

c. *Response.* The goal of the emergency water shortage condition response is to achieve a minimum of 35 percent reduction in total water use and/or daily water demand.

d. *City supply management measures.* Measures to be implemented directly by the city to managed limited water supplies and/or reduce water demand:

1. Reduced or discontinued flushing of water mains; and

2. Utilize alternative water sources and/or alternative delivery mechanisms with prior approval of the executive director of the state commission on environmental quality as appropriate (e.g., interconnection with another system, temporary use of a nonmunicipal water supply, or use of reclaimed water for nonpotable use).

e. *Mandatory water use restrictions.* All requirements of Stages 1 and 2 shall remain in effect during Stage 3 except:

1. Irrigation of landscaped areas is absolutely prohibited;

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited;

3. Use of water to wash down any sidewalk, walkway, driveway, parking lot, tennis court, or other hard surface areas is absolutely prohibited;

4. Flushing of gutters or permitting water to run or accumulate in any gutter or street is absolutely prohibited;

5. Washing down any building or structure for purposes other than immediate fire protection is absolutely prohibited.

(i) *Penalty for violation; enforcement.*

(1) It shall be unlawful for any person to cause or permit the use of potable water from a public water supply system within the city in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by a 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.

(2) First time offenders shall be issued written warning. Any person who violates this plan after they have received one written warning shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than $1.00, nor more than $200.00. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense; second, 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, set by resolution and printed in Appendix D to this Code ~~hereby established at $40.00~~, and any other cost incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager, or his/her designee, that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(j) *Variances.*

(1) *Authorized.* 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 a variance would cause an emergency condition to adversely affect the health, sanitation or fire protection for the public or the person requesting such variance, and if one or more of the following conditions are met:

a. Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect; or

b. Alternative methods can be implemented which will achieve the same level of reduction in water use.

(2) *Petition.* Persons requesting an exemption from the provisions of this section shall file a 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, and shall include the following:

a. Name, ~~and~~ address and primary e-mail address of the petitioner;

b. Purpose of water use;

c. Specific provisions of the plan from which the petitioner is requesting relief;

d. 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 section;

e. Description of relief requested;

f. Period of time for which the variance is sought;

g. 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;

h. Other pertinent information.

(3) *Conditions.* Variances granted hereunder shall be subject to the following conditions, unless waived by the city manager, or his/her designee:

a. Variances shall include a timetable for compliance;

b. Variances shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specific requirements;

c. No variance shall be retroactive or otherwise justify any violation of this plan that occurred prior to the issuance of the variance.

(Code 1994, § 78-33; Code 2005, § 86-29; Ord. No. 98-19, § 2, 7-6-1998; Ord. No. 2006-07, §§ 1--10, 3-20-2006)

Sec. 86-30. Water conservation plan.

~~(a) *General.*~~

(a) *Declaration of policy, purpose, and intent.*

(1) In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city adopts the following water conservation plan.

(2) Water uses regulated or prohibited under the water conservation plan (the plan) are considered to be nonessential 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 referenced in section 86-34.

(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:

Aesthetic water use means water use for ornamental or decorative purposes, such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use means water use which is integral to the operations of commercial and nonprofit establishments and governmental entities, such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss and/or waste of water, improve the efficiency of the use of water, and increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person, company, or organization using water supplied by the city.

Domestic water use means water use for personal needs or for household or sanitary purposes, such as drinking, cooking, bathing, heating, cooling, sanitation, or for cleaning a residence, business, industry, or institution.

Drought contingency plan means a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document.

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.

Municipal per capita water use means the sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.

Municipal use means the use of potable water within or outside a municipality and its environs, whether supplied by a person, privately owned utility, political subdivision, or other entity, as well as the use of sewage effluent for certain purposes, including the use of treated water for domestic purposes, fighting fires, sprinkling streets, flushing sewers and drains, watering parks and parkways, and recreational purposes, including public and private swimming pools, the use of potable water in industrial and commercial enterprises supplied by a municipal distribution system without special construction to meet its demands, and for the watering of lawns and family gardens.

Municipal use in gallons per capita per day means the total average daily amount of water diverted or pumped for treatment for potable use by a public water supply system. The calculation is made by dividing the water diverted or pumped for treatment for potable use by population served. Indirect reuse volumes shall be credited against total diversion volumes for the purpose of calculating gallons per capita per day for targets and goals.

Nonessential water use means water uses that are neither 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 plan.

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle.

(3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas.

(4) Use of water to wash down buildings or structures for purposes other than immediate fire protection.

(5) Flushing gutters or permitting water to run or accumulate in any gutter or street.

(6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools.

(7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life.

(8) Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak.

(9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Public water supplier means an individual or entity that supplies water to the public for human consumption.

Regional water planning group means a group established by the state water development board to prepare a regional water plan under V.T.C.A., Water Code § 16.053.

Retail public water supplier means an individual or entity that for compensation supplies water to the public for human consumption. The term "retail public water supplier" does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.

Reuse means the authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.

Water conservation plan means a strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document.

Wholesale public water supplier means an individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term "wholesale public water supplier" does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

(c) ~~1.3.~~ *Review and modification of plan.* This water conservation plan will be reviewed and updated, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The city will review and update the next revision of its water conservation plan not later than May 1, 2019, and every five years after that date to coincide with the regional water planning group.

(d) ~~1.4.~~ *Authorization, implementation and enforcement.* The city manager, or his/her designee, is hereby authorized and directed to implement and enforce this water conservation plan. This section ~~Exhibit A is a copy of Ordinance T2014-24 which~~ formally adopts this plan, outlines the implementation and enforcement authority of the city manager, and provides for the most recent update.

(e) ~~1.5.~~ *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. This plan was adopted and placed into effect by the city council in accordance with this section ~~Ordinance Number T2014-24~~.

~~1.6 *Severability.* It is hereby declared to be the intention of the city council 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 not have been enacted by the city council with the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.~~

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-31. Same--Utility profile.

The city utility profile is ~~found under Exhibit B to this Water Conservation Plan~~ on file in the office of the city secretary.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-32. Same--Goals and objectives.

(a) *Specification of conservation goals and objectives.*

(1) In accordance with 30 Tex. Admin. Code Part 1, Chapter 288, Subchapter A~~C~~, Rule 288.2(a)(1)(C), the following objectives and five- and ten-year targets have been established. The objectives of this water conservation plan are as follows:

a. To promote water conservation.

b. To determine and control unaccounted water usage.

c. To reduce the loss and waste of water.

d. To maintain an accurate record of water usage.

(2) Goals of the program (five-year target and goals).

a. Beginning in the year 2014, the city goals are to achieve a municipal use of 133 gallons per capita per day for the first five years (2014 through 2019) and also achieve a municipal use water loss goal of three gallons per capita per day for the period 2014 through 2019.

b. Beginning in the year 2014, the city goals are to control the water loss not to exceed 11 percent for the first five years (2014 through 2019).

(3) Goals of the program (ten-year target and goals).

a. Beginning in the year 2014, the city goals are to achieve a municipal use of 130 gallons per capita per day for the next ten years (2014 through 2024) and also achieve a municipal use water loss goal of an additional three gallons per capita per day for the period (2014 through 2024).

b. Beginning in the year 2014, the city goals are to manage the water loss to 12 percent or less for the next ten years (2014 through 2024).

(4) The projected baseline to reduce per capita per day consumption is 136 gpcd. To accomplish these goals, the city will utilize the programs and policies in this plan, such as accurate metering devices, universal metering, meter testing and repair, periodic meter replacement, control of unaccounted water, public education, non-promotional water rates, and leak detection and repair.

(b) *Metering.*

(1) The city meters 100 percent of the connections to the distribution system, including municipal uses. Meters range in size from three-fourths-inch to six inches. All meters are designed to provide accurate flows to within plus/minus five percent.

(2) The city practices a meter change-out program whereby meters are changed out every ten to 15 years. Additionally, larger meters are field tested and repaired for accuracy. Generally, the city does not use repaired meters in the system.

(3) The city provides treated water through two surface water pumping stations. No water is diverted from the metered source of supply. The metering is accomplished through turbine meters and certified calibration is performed tri-annually.

(c) *Determination and control of unaccounted-for water.*

(1) The city makes a bi-monthly accounting of water delivery efficiencies. At the end of each period, the public works department calculates the difference between water pumped to the system and water sold through the meters. This calculation is reduced to a percentage of water losses. This is maintained and reviewed on an annual basis.

(2) Leaks are reported by any municipal employee as well as the general public.

(3) The water plants are monitored daily and system pressure is checked carefully. Any unusual pressure level may be indicative of sizeable leaks and reported to the maintenance section as soon as noted.

(4) All leaks are repaired the same day or as soon as practicable.

(d) *Public education.*

(1) The city will support programs to educate the public regarding water conservation activities that support its goals. This includes educating the general public on the need for and practices of water conservation through public service announcements and other means. This information will be provided by means of public notice, website, press releases and mailings.

(2) Through the Focus on Friendswood Newsletter and the annual consumer customer report, the city will provide water conservation tips to its customers. In addition, the city sponsors local schools by providing book covers that include water conservation information.

(e) *Water rates.* The city has volumetric rates based on customer class. In 2014, the city moved from a uniform block rate to the volumetric system. ~~Exhibit C is a copy of the~~ Water rates are in Appendix D to this Code ~~from the Code of Ordinances~~.

(f) *Water systems operations.*

(1) The city purchases treated surface water from the City of Houston. The city owns and operates two surface water booster stations and six groundwater plants. Water is received into the ground storage tanks via water supply lines. The water is then distributed through transmission lines to customers. The system capacity is 20 MGD.

(2) The city uses approximately 1,900 million gallons annually. The purchased water provides the majority of the demand and averages over 90 percent of the usage.

(g) *Coordination with regional water planning groups.* The water service area of the city is located within the Region H Water Planning Area and a copy of this plan has been provided to the Region H Water Planning Group (RWPG).

(h) *Record management system.*

(1) The public works department maintains records of:

a. Water received from the City of Houston.

b. Water received from the groundwater plants.

c. Water pumped to the distribution system.

d. Water used for flushing and sewer line cleaning.

e. Estimates of water losses due to water leaks and firefighting/training.

(2) The administrative services department maintains records of:

a. Water sold.

b. Water rates.

In 2005, the city prepared and submitted a water audit in accordance with state water development board guidance as required by section 16.0121 of the state water code and amended by the 78th Texas Legislature.

(i) *Wholesale contracts.* The city has no wholesale contracts with any other municipalities or water districts.

(j) *Plumbing codes.*

(1) ~~The city operates under the 2009 International Plumbing Code. This~~ The current plumbing code has been formally adopted by the city council and is included in this Code. A copy of this code is on file with the city secretary. The city routinely inspects new construction, remodeling, add-ons, etc., through building permits. All new construction is required to meet state and federal rules regarding water-conserving plumbing fixtures.

(2) The city does not offer a program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures other than what would be required through the permitting process for remodels and building upgrades.

(k) *Recycling and reuse.* The city has no program regarding the reuse of gray water.

(l) *Other conservation measures.* The city recognizes that in order to accomplish the goals and objectives of this water conservation plan, other conservation measures may be required that are not outlined within the body of this document. The city is aware of the water conservation best management practices guide published by the water conservation implementation task force in November 2004. As deemed necessary, the city will implement other measures either from the BMP guide or as otherwise seen fit to assure compliance with the plan.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-33. Drought contingency plan.

In addition to this water conservation plan, the city also has a drought management plan. Drought contingency planning has been developed as a part of this water conservation plan as a means of dealing with conditions which occur from drought and/or water emergencies. The drought contingency and water emergency management phase of the conservation plan has been developed using the guidelines of the TCEQ and the TWDB.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-34. 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 $1.00 and not more than $200.00. 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 in accordance with current policies and ordinances and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager or his/her designee, that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(Code 2005, § 86-30; Ord. No. 2009-03, § 2, 4-6-2009; Ord. No. 2014-24, exh. A, 9-8-2014)

State law reference—Water conservation by home-rule municipalities, V.T.C.A., Local Government Code § 551.007.

Secs. 86-35--86-46. Reserved.

DIVISION 2. CONNECTIONS

Sec. 86-47. Application for connection of private systems; conditions.

Individual homeowners, apartment owners, subdivision developers, mobile home or trailer park owners or operators, water districts, industries, etc., desiring water or water and sewer service from the city through a private water system may, after approval of the city council and payment of the required tap fees, connect to the city's existing water and sewer distribution and collection system regardless of whether the point of connection to either system is within the corporate limits or the line being connected to is owned by the city, provided the following requirements are adhered to:

(1) The application must clearly specify the applicant's water and/or sewer system construction specifications and standards and also certify that the applicant's final installed system equals or exceeds the city's water and sewer construction standards, and the maximum number of individual homes or mobile homes and trailers, businesses, etc., to be connected to and served by the applicant's system. Applications approved by the city council are valid only as long as the maximum number of customers specified on the application are not exceeded.

(2) All industrial applications must specify maximum and minimum water consumption rates by daily total volumes, daily peak rates and also specify maximum and minimum sewage effluent by daily volume totals and peak rates, daily average, maximum and minimum pH values, daily averages and peak BOD values, along with chemical composition of such effluent. Any such application when finally approved by the city council is valid only as long as all such specified limits are not exceeded and that the chemical constituents of the effluent are not changed.

(3) Before being submitted to the city council for final approval, all such applications must have prior approval by the city engineer, planning commission and drainage board if applicable.

(4) Applications for additional connections to lines or systems outside of the city corporate boundaries that are already connected to the city's systems by prior approval of the city council through any prior agreement will be considered as a new application. Any such application prior to being approved must show written prior proof that the applicant has already secured approval of the prior applicant to connect to his system.

(5) Multiple-dwelling applicants (apartments, developers, water districts, etc.) outside the city requesting water and/or sewer service must pay for required master valves, the master meter and the line that services the applicant to a city approved tie-in point.

(Code 1974, § 18-5; Code 1994, § 78-46; Code 2005, § 86-47)

Sec. 86-48. Installation standards; ownership.

(a) *General*. For all applicants, both within and outside of the corporate limits, all materials, equipment, methods and locations of installation must meet or exceed city standards; and all such installation cost must be borne by the applicant. All approved lines and systems equipment within the corporate limits must be deeded to the city before service commences.

(b) *Construction restorations*. For all applicants, system construction and installation sites within the city must be restored to a condition like that existing prior to construction or in a manner acceptable to the city council by its vote if a deviation to this provision is requested.

(c) *Construction inspection and subsequent maintenance*. For all applicants, initial systems construction and materials along with subsequent maintenance and repairs are subject to inspection and approval by the city. All water and sewer lines and equipment must be tested to the same standards as such equipment used and maintained within the corporate limits of the city. The city will maintain at its expense all lines or systems within its own corporate boundary, whereas the applicant will maintain at his expense all lines or systems outside the city's corporate boundary, unless agreed to otherwise. Applicants may be required, at the discretion of the city council, to make an advance deposit sufficient to cover costs of inspection required in this section.

(Code 1974, § 18-6; Code 1994, § 78-47; Code 2005, § 86-48)

Sec. 86-49. Connection plat.

The applicant desiring service through a private system semiannually shall file with the city a plat showing all water and sewer connections with any additions made, and shall keep such plat up-to-date. Plat plans for such plat shall be drawn to a scale of 50 feet equals one inch and profiles shall be drawn to a scale of five feet equals one inch. Plats shall be submitted on the following standard sheets: Full standard, 24 inches by 36 inches; or half standard, 24 inches by 18 inches.

(Code 1974, § 18-8; Code 1994, § 78-48; Code 2005, § 86-49)

Secs. 86-50--86-71. Reserved.

DIVISION 3. USE REGULATIONS

Sec. 86-72. Furnishing of water outside city not obligated.

By fixing the charges specified in this article, the city does not agree nor obligate itself to furnish or continue to furnish any water to any premises or at any place located beyond its corporate limits.

(Code 1974, § 18-9(a); Code 1994, § 78-61; Code 2005, § 86-72)

Sec. 86-73. Watering lawns and gardens.

Except when the water conservation plan adopted in section 86-30 is in effect, city water users shall alternate the watering of lawns and gardens in the following manner: Watering of lawns and gardens of residences and businesses having addresses ending with an even number shall be permitted on even-numbered dates only and those ending with odd numbers shall be permitted on odd-numbered dates only.

(Code 1974, § 18-10; Code 1994, § 78-62; Code 2005, § 86-73)

Sec. 86-74. Fire hydrants to be equipped with lock.

All fire hydrants installed within the corporate limits of the city shall be equipped with a connecting device known as a "hydrolock," or its equivalent.

(Code 1974, § 18-11; Code 1994, § 78-63; Code 2005, § 86-74)

Sec. 86-75. Backflow prevention and customer service inspections.

(a) *Scope.* This section applies to all water service customers within the city where water service or the associated plumbing has been altered or newly installed, where the possibility of unprotected cross-connections may exist, or where an existing backflow prevention assembly is installed.

(b) *Purpose.* The purpose of this section is to:

(1) Protect the public water supply of the city from cross-contamination or pollution by separating potential contaminants from flowing into the public water supply systems;

(2) Prevent unprotected cross-connections by ensuring that all potential sources of contamination shall be separated from the public water supply system by an air gap or an appropriate backflow prevention device;

(3) Establish backflow prevention and customer service inspection program which will systematically and effectively prevent the contamination or pollution of the city's potable water supply system; and

(4) Follow the guidelines set forth in the state commission on environmental quality rules and regulations for public water systems.

(c) *Authority.* The city, and all designated representatives, will be considered the authority having jurisdiction. The public works department and the community development department of the city are authorized to make all necessary and reasonable rules and policies consistent with respect to the enforcement of this section.

(d) *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:

Altered means any material improvement, relocation of or addition to the water supply system which does not include replacement of fixtures.

Back-siphonage means a form of backflow due to a deduction in system pressure which causes a sub-atmospheric pressure to exist at a site in the water system.

Backflow means any unwanted flow of used, nonpotable water or chemical substance from any piping system into the public water supply system.

Backpressure means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

Cross-connection means any unprotected water supply connection, actual or potential, between the water supply system and any other source through which it is possible to introduce any used water, or chemical substance into the public water supply system; bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other devices through which backflow could occur, shall be considered to be cross-connections.

Health hazard means a potential contamination hazard involving any substance that may cause death, illness, or spread of disease if introduced into the public water supply.

Nonhealth hazard means a potential contamination hazard involving any substance that constitutes a nuisance, or may be aesthetically objectionable, if introduced into the public water supply.

Nonresidential includes all properties except one- and two-family dwellings.

Potential source includes, but is not limited to, any lavatory, sink, or vessel which could provide the potential for backpressure and/or back-siphonage to occur, thereby contaminating the potable water supply system.

Residential includes only one- and two-family dwellings.

Water purveyor means the operator, herein referred to as the city, of the public water system which supplies potable water to the public.

(e) *Backflow prevention program.*

(1) 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 state regulations for public water systems and this division. The water purveyor shall discontinue water service if a required backflow prevention assembly is not installed, maintained, and tested in accordance with state regulations and this section.

(2) All types of backflow prevention assemblies shall be installed according to the hazards table inset below.

a. Table 1 reflects types of uses of a premises, their corresponding hazard classification and recommended backflow assemblies.

b. Table 2 reflects different types of internal cross-connections, their corresponding hazard classifications and recommended backflow assemblies.

TABLE 1

The following table lists many common hazards. It is not an all-inclusive list of the hazards which may be found connected to public water systems.

Premises Isolation Description of Premises	*Assessment of Hazard*	*Required Assembly*
Aircraft and other missile plants	Health	RPBA or AG
Animal feedlots	Health	RPBA or AG
Automotive plants	Health	RPBA or AG
Breweries	Health	RPBA or AG
Canneries, packing houses and rendering plants	Health	RPBA or AG
Cold storage facilities	Health	RPBA or AG
Commercial car wash facilities	Health	RPBA or AG
Commercial laundries	Health	RPBA or AG
Connection to sewer pipe	Health	AG
Dairies	Health	RPBA or AG
Docks and dockside facilities	Health	RPBA or AG
Dye works	Health	RPBA or AG
Food and beverage processing plants	Health	RPBA or AG
Hospitals, morgues, mortuaries, medical clinics, dental clinics, veterinary clinics, autopsy facilities, sanitariums, and medical labs	Health	RPBA or AG
Metal manufacturing, cleaning, processing, and fabrication plants	Health	RPBA or AG
Microchip fabrication facilities	Health	RPBA or AG
Paper and paper products plants	Health	RPBA or AG
Petroleum processing or storage facilities	Health	RPBA or AG
Photo and film processing labs	Health	RPBA or AG

Plants using radioactive material	Health	RPBA or AG
Plating or chemical plants	Health	RPBA or AG
Pleasure-boat marinas	Health	RPBA or AG
Private/individual/unmonitored wells	Health	RPBA or AG
Reclaimed water systems	Health	RPBA or AG
Restricted, classified or other closed facilities	Health	RPBA or AG
Rubber plants	Health	RPBA or AG
Sewage lift stations	Health	RPBA or AG
Sewage treatment plants	Health	RPBA or AG
Slaughterhouses	Health	RPBA or AG
Steam plants	Health	RPBA or AG
Tall buildings or elevation differences where the highest outlet is 80 feet or more above the meter	Nonhealth	DCVA

TABLE 2

The following table lists many common hazards. It is not an all-inclusive list of the hazards which may be found connected to internal piping connected to public water systems.

Internal Protection Description of Cross-Connection	*Assessment of Hazard*	*Required Assembly*
Aspirator (medical)	Health	AVB or PVB
Aspirators	Nonhealth*	AVB
Autoclaves	Health	RPBA
Autopsy and mortuary equipment	Health	AVB or PVB
Bedpan washers	Health	AVB or PVB
Connection to industrial fluid systems	Health	RPBA
Connection to plating tanks	Health	RPBA
Connection to salt-water cooling systems	Health	RPBA
Connection to sewer pipe	Health	AG
Cooling towers with chemical additives	Health	AG
Cuspidors	Health	AVB or PVB
Degreasing equipment	Nonhealth*	DCVA
Domestic space-heating boiler	Nonhealth*	RPBA
Dye vats or machines	Health	RPBA
Firefighting system (toxic liquid foam concentrates)	Health	RPBA

Flexible shower heads	Nonhealth*	AVB or PVB
Heating equipment:		
Commercial	Nonhealth*	RPBA
Domestic	Nonhealth*	DCVA
Hose bibbs	Nonhealth*	AVB
Irrigation systems:		
With chemical additives	Health	RPBA
Without chemical additives	Nonhealth*	DCVA, AVB, or PVB
Kitchen equipment--Commercial	Nonhealth*	AVB
Lab bench equipment	Health or Nonhealth*	AVB or PVB
Ornamental fountains	Health	AVB or PVB
Sewage ejectors	Health	AG
Sewage pump	Health	AG
Shampoo basins	Nonhealth*	AVB
Specimen tanks	Health	AVB or PVB
Steam generators	Nonhealth*	RPBA
Steam tables	Nonhealth*	AVB
Sterilizers	Health	RPBA
Swimming pools:		
Private	Nonhealth*	PVB or AG
Public	Nonhealth*	RPBA or AG
Tank vats or other vessels containing toxic substances	Health	RPBA
Trap primers	Health	AG
Vending machines	Nonhealth*	RPBA or PVB
Watering troughs	Health	AG or PVB

NOTE: AG = air gap; AVB = atmospheric vacuum breaker; DCVA = double check valve backflow prevention assembly; PVB = pressure vacuum breaker; RPBA = reduced pressure principle backflow prevention assembly.

+AVBs and PVBs may be used to isolate health hazards under certain conditions, that is, back-siphonage situations. Additional area of premises may be required.

*Where a greater hazard exists (due to toxicity or other potential health impact) additional area protection with RPBA is required.

(f) *Assembly testing and maintenance, annual testing.*

(1) All backflow prevention assemblies, independent of the hazard identified, shall be tested upon installation by a certified 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 annually and certified to be operating within specifications. The city public works department will provide written notification to the property owners 30 days in advance stating when the annual test of their backflow prevention assembly is required. Results of all testing must be forwarded to the city community development department by the date of expiration. Failure to receive notification does not relieve property owners of the responsibility of annual testing for each assembly.

(2) 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 14, current edition) or the University of Southern California Manual of Cross-Connection Control (current edition), and the regulations set forth by the state commission on environmental quality.

(3) Assemblies shall be repaired, overhauled, or replaced at the expense of the water customer whenever said assemblies are found to be defective. Original forms of such test, repairs, and overhaul shall be kept and submitted to the city community development department within five business days of the test, repair or overhaul of each backflow prevention assembly.

(4) All existing backflow prevention assemblies which do not meet current state regulations but were approved devices at the time of installation and which have been properly maintained, may, except for the testing and maintenance requirements under subsections (f)(1) through (3) of this section, continue in use until the assembly cannot meet all minimum annual testing performance standards. The city community development department may require the assembly be replaced in the event that it is determined that the continued use of the assembly constitutes a health hazard.

(5) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of, or a permit from, the city community development department. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section, and which has been tested as herein required.

(6) Gauges used for backflow prevention assembly testing shall be calibrated at least annually. The original calibration form shall be submitted to the city community development department within five business days after calibration.

(g) *Responsibility.* It shall be the responsibility of the water customer where backflow prevention assemblies are installed to have a field test performed and repairs completed (if necessary) by a certified backflow prevention assembly tester. Tests and repairs shall be at the expense of the water user.

(h) *Customer service inspections program required.* A customer service inspection report shall be completed prior to providing continuous water service to all new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, alteration, or addition to the private water distribution facilities.

(i) *Authority to perform required customer service inspections.*

(1) State board of plumbing examiners certified plumbing inspectors and licensed plumbers with the water supply protection specialist endorsement may perform customer service inspections.

(2) Certified waterworks operators and members of other water related professional groups who have completed a training course, passed an examination administered by the state commission on environmental quality or its designated agent, and hold a current endorsement issued by the commission may perform customer service inspections.

(j) *Completion of required customer service inspections.* All required customer service inspections associated with a plumbing permit shall be included in the plumbing final inspection by the city's designated plumbing inspector. All additional customer service inspections will be the responsibility of the property owner.

(k) *Minimum standards of a required customer service inspection.* The required customer service inspection must certify that:

(1) No direct connection between the public water supply and a potential source of contamination exists, and that potential sources of contamination are isolated from the public water supply by a properly installed air gap or an appropriate backflow prevention assembly.

(2) No cross-connection between the public drinking water supply and a private water system exists, and where an actual air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a certified backflow prevention assembly tester.

(3) No connection exists which would allow the return of water used for condensing, cooling or industrial processes back to the public water supply.

(4) For all newly constructed systems and for any portion of an existing system at or within view from a backflow prevention device or work of any type performed on said existing system, the following statements are required:

a. Lead tests have been performed, as required, and no pipe or pipe fitting which contains more than 0.2 percent lead has been used for the installation or repair of plumbing at any connection which provides water for human use; and

b. Lead tests have been performed as required, and no solder or flux which contains more than 0.2 percent lead has been used for the installation or repair of plumbing at any connection which provides water for human use.

(l) *Authority having jurisdiction; enforcement.* The city community development department and public works department shall have the responsibility for maintenance of the backflow prevention and customer service inspections program, and for enforcement of this section. All customers shall have until March 31, 2009, to come into compliance with the use of backflow preventers and to have their inspections done and reports submitted to the community development department.

(m) *Authority to disconnect service.* If a person violates this section, the city public works department shall, upon due notice to the water customer, be authorized to discontinue water service to the premises where such violation occurred.

(n) *Reconnection.* Upon request to open or reinstitute water service at a location previously discontinued due to violations of this section, proof of a current customer service inspection as described in subsections (i) through (k) of this section shall be provided. Services disconnected under such circumstances shall be restored only upon receipt of the inspection report indicating

that the previous violation has been remedied and received payment of a reconnection charge, consistent with the fee and charge schedule found in Appendix D to this~~, Fees, of the~~ Code~~ of Ordinances~~, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same violation shall not be repeated while this section is in effect. Compliance with this section may also be sought through injunctive relief.

~~(o) *Penalty.* Notwithstanding section 1-14 of the city Code, any person who shall intentionally, knowingly or with criminal negligence violate any provision of this section shall be deemed guilty and, upon conviction, shall be fined in an amount not to exceed $500.00.~~

(Code 2005, § 86-75; Ord. No. 2008-26, § 1, 8-18-2008; Ord. No. 2017-09, § 2, 4-3-2017)

Secs. 86-76--86-91. Reserved.

DIVISION 4. RATES, CHARGES, FEES

Sec. 86-92. Sale of potable water inside corporate limits.

Monthly rates shall be charged for potable water service furnished through water meters by the city to all single-family units and businesses, including, but not limited to, trailers, apartments, condominiums, multifamily, multibusiness and commercial units using potable water inside the corporate limits of the city. Such rates are set by resolution and printed in Appendix D to this Code.

(Code 1974, § 18-3(a); Code 1994, § 78-76; Code 2005, § 86-92; Ord. No. 92-4, § 1, 4-6-1992)

Sec. 86-93. Sale of potable water outside corporate limits.

Monthly rates shall be charged for potable water service furnished through water meters to all users of potable water outside the corporate limits of the city, except where the city has, by contract with a user of potable water, agreed to sell at different rates. Such rates are set by resolution and printed in Appendix D to this Code.

(Code 1974, § 18-3(b); Code 1994, § 78-77; Code 2005, § 86-93)

Sec. 86-94. Adjustment of bill as result of defect in customer's line.

(a) Any residential, commercial, multifamily or outdoor customer of the city may request an adjustment of any water bill submitted to him by the city for water usage because of a loss of water through an excusable defect in the customer's water line provided that only one bi-monthly bill out of six consecutive bi-monthly bills may be adjusted, by filing a sworn written application with the utility official and mailing or delivering the same to the department within six months of the repair of the excusable defect. Such application shall contain the following matters and such other information as the utility official may require:

(1) The name of the customer, the address, primary e-mail address or description of the property or premises furnished water, the bill which is sought to be corrected, the date of the bill and the period of water usage covered thereby.

(2) A statement of the date on which the excusable defect in the customer's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.

(3) A written acknowledgment that the customer makes the statements shown on the application and swears to their truth for the purpose of requesting the city to grant a reduction in the amount of the water bill for which a correction is requested.

(4) The application shall show whether or not there have been any additional water appliances placed in use on the customer's premises during the period covered by such

bill or in the preceding 12 months. Documentation shall be submitted detailing the exact nature and date of the repairs to the customer's water line.

(5) This documentation should also include proof or statement by the customer or vendor making the repair whether or not the additional/excess water flowed through the city's sewer system.

(6) A statement that the customer is personally familiar with all of the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.

(7) The customer shall execute a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under ~~chapter~~ V.T.C.A., Penal Code ch. 37 ~~of the Texas Penal Code~~ and shall state that the applicant/account holder certifies that the application contains no false statements.

(8) As used in this section, the term "excusable defect" shall mean a rupture or leakage of the customer's water line as may be caused by freezing weather, settlement, corrosion, wear or accident. The term "excusable defect" does not apply to defective or out-of-repair faucets or other plumbing fixtures, such as toilets.

(b) Applications under this section shall be made on forms prescribed by the director of administrative services.

(c) Upon receipt of a properly completed application, the utility official shall review such application, and if he approves the same as being in compliance with this section, the customer's bill shall be corrected by applying to the amount of the water consumption shown thereon in excess of the customer's average water usage, a rate of charge equal to one-half of the normal rate of such water usage of customer's rate classification, which reduction in rate shall be accomplished in the following manner:

(1) The customer's average water usage over the prior 12 months shall be determined. If the customer has not had water service at the service address for a sufficient length of time to make such determination, then the average water usage over a period of 12 months for city water customers will be used. This average water usage so determined will hereafter be referred to as "average usage."

(2) From the total water consumption shown on the bill submitted for correction, the average usage will be deducted. The resulting figure will hereafter be referred to as "excess usage."

(3) The excess usage will be considered consumption beyond the average usage, and one-half of the regular rate for consumption beyond the average usage (for customer's rate classification) will be applied to the excess usage and this will determine the amount the customer must pay for the excess usage.

(4) The regular rate for the customer's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the customer must pay for water usage during the period covered by the adjusted bill.

(5) If the commercial, multi-unit commercial or multi-unit residential customer provides documentation that the excess water usage did not flow through the city's sewer system, the sewer charges included on the customer's bill in question will be adjusted to charge for the customer's 12-month average sewer usage. This sewer adjustment would not apply to single unit residential customers as sewer charges are based on winter months' average for this customer class. As referenced in this section, winter months are defined as November through February.

(6) If an excusable defect (leak) occurs during the winter months' average calculation period for a single unit residential customer, sewer charges for the customer will be based on that customer's prior year winter months' average at the location.

(7) If a single unit residential customer has not established a prior year winter months average at the location, the citywide winter months average will be used to bill for sewer charges.

(d) Any correction authorized in the section shall be accomplished if the bill under consideration for adjustment has already been paid, by crediting the customer's account with the amount thereof, to be applied against charges for water and/or sewer thereafter accruing. If a customer, whose account has been so credited, discontinues water service before the amount of the credit shall have been absorbed by such subsequent charges, the remaining balance shall be refunded by check payable to the customer and mailed to the forwarding address provided by the customer at the time of service discontinuance, if all other sums due the city have been paid. If such bill has not already been paid, the correction shall be made by reducing the amount of such bill accordingly.

(e) A determination by the director of administrative services, or his/her designee, of the amount of a correction to be made in a customer's water bill in accordance with the provisions of this section shall be final.

(Code 1994, § 78-78; Code 2005, § 86-94; Ord. No. 99-8, § 1, 1-18-1999; Ord. No. 2012-02, § 1, 1-23-2012; Ord. No. 2015-01, § 1, 2-2-2015)

Sec. 86-95. Adjustment of unusually large bill.

(a) Any single-family residential, multifamily residential, commercial or outdoor customer who receives a water bill for any given billing period that is computed on the basis of a gross quantity greater than 200 percent of the average bi-monthly gross quantity applicable to such customer, may request an adjustment of the bill in the manner provided in this section, provided that, for any given customer, only one such bi-monthly bill out of any series of six consecutive bi-monthly bills may be adjusted under this section. The average monthly gross quantity applicable to a customer means the average gross quantity for water service to the same premises during the months immediately preceding the period for which the adjustment is sought. In order to request such an adjustment, the customer shall file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth and understanding that the application is a government record subject to criminal prosecution for false statements under V.T.C.A., Penal Code ch. 37, and the customer shall state that the application contains no false statements. The application shall identify the bill and briefly state:

(1) The reasons for the request for the adjustment;

(2) A description of the additional water appliances or fixtures, if any, that have been placed in use by the customer during the billing cycle in question or the preceding 12 months;

(3) That there have been no plumbing repairs or necessity therefore during the billing period for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and

(4) Such other information as the application may require.

(b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall make an adjustment to correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained

in the customer's application. If the utility official concludes that, in all reasonable probability, the customer was charged for more water than the customer consumed during the billing period in question but is unable to account to such unusual quantity, the utility official shall re-compute the bill using as a gross quantity 200 percent of the average bi-monthly gross quantity applicable to the customer.

(c) Sewer charges for single unit residential customers are not eligible for adjustment as sewer charges are based on winter months' average for this customer class. As referenced in this section, winter months are defined as November through February.

(d) If a single unit residential customer has not established a prior year winter months average at the location, the citywide winter months average will be used to bill for sewer charges.

(e) In the event that an adjustment is made under this subsection, it shall be accomplished, if the bill under consideration for adjustment has already been paid, by crediting the customer's account with the amount thereof, to be applied against charges for water thereafter accruing. If a customer whose account so credited discontinues water service before the amount of the credit has been absorbed by such subsequent charges, the remaining balance shall be refunded by check payable to the customer and mailed to the forwarding address provided by the customer at the time of discontinuance, if all other sums due the city have been paid. If such bill has not already been paid, the adjustment shall be made by reducing the amount of such bill accordingly.

(f) A determination by the director of administrative services, or his/her designee, of the amount of a correction to be made in a customer's water bill in accordance with the provisions of this section shall be final.

(Code 1994, § 78-79; Code 2005, § 86-95; Ord. No. 99-8, § 2, 1-18-1999; Ord. No. 2012-02, § 2, 1-23-2012; Ord. No. 2015-01, § 2, 2-2-2015)

Secs. 86-96--86-118. Reserved.

ARTICLE III. SANITARY SEWER SYSTEM*

***State law reference**—Municipal power regarding sewers and privies, V.T.C.A., Health and Safety Code § 342.002.

DIVISION 1. GENERALLY

Sec. 86-119. Compliance with article.

To ensure proper operation of the entire sewage collection and processing system, all approved connected users of the city sewage disposal system, either within or outside the corporate limits, must comply with this article and are subject to all requirements and regulations of this article.

(Code 1974, § 18-21; Code 1994, § 78-101; Code 2005, § 86-119)

Secs. 86-120--86-136. Reserved.

DIVISION 2. CONNECTIONS

Sec. 86-137. Required; standards.

Every owner of a building, or part thereof, located within the city and used for human occupancy any part of the day or night, where a main or lateral sewer of the public sewer system of the city is laid and maintained by the city within 175 feet of the tract whereon such building is located or proposed, shall install within such building or part of such building, or upon the premises where such building is situated, a water closet and shall have such water closet connected with the city's public sewer system. Every such closet shall be supplied with water and with a water flush tank adequate to properly flush such toilet or closet.

(Code 1974, § 18-22; Code 1994, § 78-111; Code 2005, § 86-137)

Sec. 86-138. Use of fixtures in violation of article.

It shall be unlawful for any person, whether as owner, agent of the owner, or lessee, tenant, proprietor or occupant of any building or part of building or premises which shall be or is located on a tract of land where a main or lateral sewer of the public sewer system of the city exists or is laid and maintained by the city within 175 feet of such tract, or which building or tract shall otherwise come within the provisions of section 86-137, to construct, use or maintain, or permit to be constructed, used or maintained, upon the lot, parcel of land or premises upon which such building or part of building is located, any privy, water closet, urinal, slop drain, bathtub drain, shower bath drain, wastewater drain or any other receptacle whatever used or to be used for the purpose of receiving and discharging sewage matter, wastewater or slop of any kind, unless the same shall be connected with the public sewer system of the city.

(Code 1974, § 18-23; Code 1994, § 78-112; Code 2005, § 86-138)

Sec. 86-139. Construction plan to show compliance.

No permit shall be issued for the construction of any building in the city on any lot or any parcel of land where there is a main or lateral of the public sewer system of the city adjoining such lot or parcel of land or where such lot or parcel of land shall come within 175 feet of such main or lateral sewer of the city unless the plans and specifications show compliance with this article and other ordinances of the city.

(Code 1974, § 18-24; Code 1994, § 78-113; Code 2005, § 86-139)

Sec. 86-140. Cesspools, septic tanks, etc., prohibited where sewer available; not to be connected with sewer system.

It shall be unlawful for any person, whether as owner, agent of the owner, lessee, tenant, proprietor or occupant of any building or part of any building, or of any lot, parcel of land or premises coming within the provisions of sections 86-137 and 86-138, to construct, use or maintain or permit to be constructed, used or maintained on such lot, parcel of land or premises, any cesspool, septic toilet, septic tank or pit toilet. No cesspool, septic toilet, septic tank or privy vault shall be connected with the public sewer system.

(Code 1974, § 18-25; Code 1994, § 78-114; Code 2005, § 86-140)

Secs. 86-141--86-163. Reserved.

DIVISION 3. USE REGULATIONS

Subdivision I. In General

Sec. 86-164. Use of premises without required water closets.

It shall be unlawful for the owner or occupant of any building in the city, any portion of which is used for any portion of the day, to fail to have at least one water closet in such building connected with the public sewer, except in the case where two or more such buildings are used by one firm or corporation, which shall require but one connection.

(Code 1974, § 18-26; Code 1994, § 78-126; Code 2005, § 86-164)

Sec. 86-165. Wastewater receptacle required.

It shall be unlawful for the owner or occupant of any building in the city in which food is cooked or clothing is washed for the public to fail to have a suitable sink, slop stone, drain or hopper for the reception of water.

(Code 1974, § 18-27; Code 1994, § 78-127; Code 2005, § 86-165)

Sec. 86-166. Uncovering sewer; connecting without authority.

It shall be unlawful for any person to uncover the public sewer for any purpose, or to make connection therewith, or to uncover the public connection branches thereof, unless by consent or under the supervision of the city or its duly authorized agents.

(Code 1974, § 18-28; Code 1994, § 78-128; Code 2005, § 86-166)

Sec. 86-167. Obstruction of or damage to sewer system.

It shall be unlawful for any person to obstruct, puncture, cut or in any way injure any of the pipes, works or drains or machinery belonging to or connected with any sewer system owned, used or operated in the city, or to place or drop or throw any substance whatever into the sink, water closet, bathtub, vessel drains or other receptacles belonging to or connected with any sewer system owned, used or operated in the city, which may obstruct or injure such sewer system.

(Code 1974, § 18-29; Code 1994, § 78-129; Code 2005, § 86-167)

Sec. 86-168. Depositing sewage on ground.

It shall be unlawful for any person to throw or allow to be thrown or deposited on the surface of the ground, or in any hold or vault in or under the surface of the ground, in the city, except in the proper and necessary manuring of the soil, any liquid or solid filth, feces or urine.

(Code 1974, § 18-30; Code 1994, § 78-130; Code 2005, § 86-168)

Sec. 86-169. Depositing wastewater on streets or in ditches.

It shall be unlawful for any person to allow any slop, drainings, wash or wastewater of any kind to flow over the pavement or into the street or into open ditches.

(Code 1974, § 18-31; Code 1994, § 78-131; Code 2005, § 86-169)

Sec. 86-170. Depositing garbage, etc.

It shall be unlawful for any person to deposit any garbage, offal, dead animals, filth or any substance having a tendency to obstruct the flow of sewage in any manhole, lamphole, flush tank or sewer opening.

(Code 1974, § 18-32; Code 1994, § 78-132; Code 2005, § 86-170)

Sec. 86-171. Deposit of caustics, etc.

It shall be unlawful for any person to discharge acids, caustics, chemicals, fuels or waste oil and greases into the sewer system which may damage lines, bacteria or plants.

(Code 1974, § 18-33; Code 1994, § 78-133; Code 2005, § 86-171)

Sec. 86-172. Overload.

Unless a separate sewage treatment contract has been negotiated with the city, no commercial or business establishments shall discharge sewage effluent into the city sewer system which may tend to create an overload. An "overload" is defined as that condition where the effluent from any single commercial or private connection to a city sewer main exceeds any one or all of the following specified effluent values:

(1) Flow rate: 50 gallons per minute maximum.

(2) Total daily integrated flow: 10,000 gallons.

(3) Daily average suspended solids: 400 parts per million.

(4) Daily average BOD: 400 parts per million maximum.

(5) Peak BOD: 500 parts per million maximum.

(Code 1974, § 18-34; Code 1994, § 78-134; Code 2005, § 86-172)

Sec. 86-173. Preventing illegal discharges.

The city is hereby empowered to stop and prevent from discharging into the public sewer through any private drain or house or commercial connection, the discharge of any materials or substances which are liable to injure such sewers or sewage processing system or to obstruct the flow of sewage, or on which the sewer charges according to the schedule adopted in this article have not been paid.

(Code 1974, § 18-35; Code 1994, § 78-135; Code 2005, § 86-173)

Secs. 86-174--86-199. Reserved.

Subdivision II. Infiltration

Sec. 86-200. Definitions.

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

Infiltration means the water entering a sanitary sewer system and/or service connection from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

Inflow means the water discharged into a sanitary sewer system and/or service connection from such sources as, but not limited to, roof leaders, cellars, swimming pool and/or spa drains, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catchbasins, stormwaters, surface runoff, and street wash waters or drainage.

Sanitary sewer means a public sewer that conveys domestic wastewater, industrial waste, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

(Code 1994, § 78-146; Code 2005, § 86-200; Ord. No. 92-1, § 2, 2-17-1992)

Sec. 86-201. Responsibility and applicability.

(a) The city's director of public works, or his/her designee, shall be responsible for the inspection, maintenance, repair and operational integrity of the city's sanitary sewer collection system.

(b) Any person owning or occupying a tract or parcel of land upon which sanitary sewer service lines are located which flow into public lines in city streets, alleys and easements (including, but not limited to, single-family or duplex residences, mobile homes and/or trailer parks, apartments, places of business, schools, hospitals, churches, structures of any kind, vacant buildings or vacant land) shall be responsible for the inspection, maintenance, repair and operational integrity of such private sanitary sewer service line.

(Code 1994, § 78-147; Code 2005, § 86-201; Ord. No. 92-1, § 1, 2-17-1992)

Sec. 86-202. Inspections.

Prior to the original connection, reconnection or transfer of water and/or sewer service to a tenant or property owner, the city may inspect or require the inspection of private sanitary sewer service lines thereon for the purpose of determining the amount of infiltration and inflow into such lines, if any. Inspections shall be made or required when, based upon local infiltration and inflow conditions and experience, the director of public works has determined that such inspections are necessary to effectuate the purposes of this subdivision. Any conditions discovered in such line

inspections causing or allowing infiltration or inflow shall be repaired by the property owner or tenant, or agent thereof, prior to such original connection, reconnection or transfer of city water and/or sewer service, as applicable. Where conditions have been discovered on existing private service lines but for which no application for reconnection or transfer to city service has been sought, the property owner or tenant shall cause such repairs and maintenance to be performed in accordance with sections 86-204 and 86-205.

(Code 1994, § 78-148; Code 2005, § 86-202; Ord. No. 92-1, § 3, 2-17-1992)

Sec. 86-203. Notification; termination of service.

(a) The director of public works or his/her designee shall notify, in writing, by registered mail, return receipt requested, each property owner on whose property a source of infiltration or inflow of water into the city's sanitary sewer system exists, as well as the nature and location of the sources. The property owner shall within three calendar months of date of notification have the sources repaired, at his expense.

(b) A reminder notice shall be sent following one month after the original notice provided in subsection (a) of this section if the repairs required thereby have not been completed.

(c) A notice of discontinuance of service shall be sent following two months after the original notice under this section was sent if the repairs required thereby have not been completed.

(d) If after the expiration of three months following the original notice sent under this section the repairs required thereby have not been completed, the director of public works shall terminate water and/or sanitary sewer service to the property and the property owner and/or tenant shall be deemed in violation of this section and subject to the penalties set forth in section 86-205.

(Code 1994, § 78-149; Code 2005, § 86-203; Ord. No. 92-1, § 4, 2-17-1992)

Sec. 86-204. Repairs.

(a) If a private service line has defects allowing infiltration or inflow and is without glued, leaded or rubber-gasketed joints, and which cannot be repaired, the property owner shall replace the entire private sewer service line with PVC pipe schedule 40.

(b) All repairs required by this subdivision shall be made by a plumber licensed by the state or by the property owner, if a resident. A homeowner may install or maintain plumbing and/or sewer fixtures or equipment within his own property boundaries, provided such work is performed by himself and used exclusively for himself or his family. Such privilege does not convey the right to violate any provision of this subdivision nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

(c) After a repair required by this subdivision has been completed and before it has been covered, the city plumbing inspection department shall be notified to inspect and approve its adequacy and workmanship. If the city plumbing inspector leaves a green tag signifying a satisfactory repair, the plumber or owner may replace the cover.

(d) If the city plumbing inspector leaves a red tag, the plumber or owner must contact the city official designated on the red tag and correct the repairs as specified and then notify the city plumbing inspection department for a followup inspection. The owner and/or plumber shall not cover such repairs until ultimate approval by the city plumbing inspector, and, if covered, shall be required to excavate and the city shall reinspect the repairs and, if still defective, disconnect water and/or sewer service.

(Code 1994, § 78-150; Code 2005, § 86-204; Ord. No. 92-1, § 5, 2-17-1992)

Sec. 86-205. Penalties for violation of subdivision.

(a) Any person who shall fail to make necessary repairs within the three-month period as set forth in section 86-203(d) shall be subject to termination of water and/or sewer service to the property.

(b) Any person who shall violate any provision of this subdivision, or who shall fail to perform any act required in this subdivision following notice as prescribed in this subdivision, shall be guilty of a misdemeanor~~, upon conviction thereof, be fined as provided in section 1-14~~.

(c) If the city is unable to locate the property owner or his agent or the property owner or his agent refuses to make the necessary repairs required by this subdivision, the city may, at its discretion, initiate proceedings against the owner thereof in accordance with the procedures set forth in section 14-319 et seq., passed and approved on December 18, 1989, and, following any hearing thereon, may order such work done, assess a charge against the owner thereof for the expenses incurred in correcting the defects, and attach a lien to the affected property to secure the costs therefor, all in accordance with and pursuant to the procedures set forth in section 14-319 et seq.

(d) The existence of infiltration or inflow into private sanitary sewer service lines is hereby declared to constitute a nuisance and a health hazard, and a substandard condition pursuant to section 14-319 et seq.

(Code 1994, § 78-151; Code 2005, § 86-205; Ord. No. 92-1, § 6, 2-17-1992)

Secs. 86-206--86-233. Reserved.

DIVISION 4. RATES, CHARGES, FEES

Sec. 86-234. Charges for sewer service inside and outside the corporate boundaries of the city.

All rates, charges and fees for sewer service within and without the city limits are set by resolution and printed in Appendix D to this Code.

(Code 1994, § 78-161; Code 2005, § 86-234)

Secs. 86-235--86-261. Reserved.

ARTICLE IV. EXPANSION AND EXTENSION OF SERVICE

DIVISION 1. GENERALLY

Sec. 86-262. Extension of water and sewer services to properties outside the city limits.

The city council hereby adopts and establishes the following policy with regard to the provision of potable water and sanitary sewer services to properties located outside the corporate boundaries of the city: "Potable Water/Sanitary Sewer Service Policy for Properties Located Outside City Limits." The city will not provide potable water or sanitary sewer utility services outside the corporate limits of the city, except as follows:

(1) The city will continue to honor the interlocal agreement with the City of Pearland to provide utility service to certain residential development;

(2) The city will continue to serve out of city commercial developments that have been provided service prior to the date of adoption of this section;

(3) Upon prior approval by the city council, to properties which require such service to protect persons against undue risk from environmental hazards; and

(4) Upon prior approval by the city council, when the providing of such services is reasonably necessary to preserve and protect the environmental condition of the property being served, and no reasonable alternative is available under the circumstances then existing.

(Code 1994, § 78-186; Code 2005, § 86-262; Ord. No. 2002-05, § 2, 3-4-2002)

Secs. 86-263--86-287. Reserved.

DIVISION 2. EXPANSION OF SERVICE

Sec. 86-288. Water expansion/connection fees; sewage treatment expansion/connection fees.

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

Commercial unit means each separate commercial or business establishment which shall apply for or contract for service from the city's water or sewer system and for which a meter has been or is to be installed.

Residential unit means a house, apartment, townhouse, mobile home, a group of rooms or a single room, or any other separate or individual space intended for occupancy as living quarters.

(b) *Fees*. Water expansion/connection fees and sewage treatment expansion/connection fees for residential or commercial service shall be set by resolution and printed in Appendix D to this Code.

(c) *Policy as to developers*. All developers will be required to extend water and sewer service to the property lines of each lot before streets are topped. These services will require the inspection of a city representative.

(d) *Purpose, payment of fees*. The fees to be paid under the terms of this section are for the maintenance and upgrade of the water and sewer systems (water and sewer construction fund) and shall be due and payable simultaneously with but shall not be received before submission of applications, plans, specifications and other documents necessary to acquire building permits from the city; provided, however, that if the water and/or sewer services shall be used strictly for a purpose not requiring a building permit, such as strictly agricultural purposes (e.g., watering livestock, etc.), then water and/or sewer connections may be provided without the necessity to apply for building permits.

(Code 1974, § 18-7; Code 1994, § 78-196; Code 2005, § 86-288)

Secs. 86-289--86-309. Reserved.

DIVISION 3. EXTENSION OF SERVICE LINES

Sec. 86-310. Authority to extend.

The utility department may extend water and sewer mains in the streets, alleys or easements within the city limits in order to permit connections by persons desiring and seeking water service and sanitary sewer service.

(Code 1974, § 18-47; Code 1994, § 78-206; Code 2005, § 86-310)

Sec. 86-311. Rates.

A charge shall be made against each lot or tract of land and the owner thereof whose water or sewer line shall be connected with any water main or sanitary sewer main other than interceptor trunk lines in the city. Charges shall be determined by dividing the contract cost of the extension by the number of front feet to be served in the extension.

(Code 1974, § 18-48; Code 1994, § 78-207; Code 2005, § 86-311)

Sec. 86-312. Extensions up to 100 feet.

When the property for which the owner desires water or sewer service is located 100 feet or less from the corner of an intersecting street upon which main lines exist, the city will construct the water or the sewer lines at the city's expense to the nearest corner of the property to be served. It shall be the owner's responsibility to pay for the extension of water or sewer lines from this point to the far corner of property owned by him and which is served by the extension requested.

(Code 1974, § 18-49; Code 1994, § 78-208; Code 2005, § 86-312)

Sec. 86-313. Extensions over 100 feet.

When the property for which the owner desires water or sewer service is located more than 100 feet from the corner of an intersecting street upon which a main line exists, and provided that no previous extensions have been made in such block from the existing main line, the city will construct the water or sewer lines for a distance of 100 feet from the corner of the intersecting street rights-of-way at city expense. It shall be the owner's responsibility to pay for the extension of water or sewer lines from such point to the far corner of property owned by him and which is served by the extension requested.

(Code 1974, § 18-50; Code 1994, § 78-209; Code 2005, § 86-313)

Sec. 86-314. Limitation of extensions.

(a) Where the property for which the owner desires water or sewer service is located within a block where prior extensions have been made by the city, it will be the responsibility of the owner to pay for extensions of water and sewer lines from the existing location of the lines to the far corner of the property owned by him and which is served by the extension requested.

(b) When the property for which water or sewer services are desired fronts upon any section of water or sewer lines which have previously been extended at city expense as provided for in this division, the regular prorated charge as set forth in this division shall be paid to and retained by the city.

(c) Applicants shall pay twice the prorated charge as set forth in this division for extensions made under this division, such costs representing the cost per lineal foot of water or sewer lines constructed under the provisions of this division. Thereafter, when the intervening frontage upon which charges have been paid are connected to such line extensions, the intervening property owner shall pay the prorated charge per front foot as set out in this division to the person paying the original extension cost. In no event shall the applicant be refunded any amount that would represent any part of the prorated charges against his own property that can be served by the given extension nor any amount in excess of prorated charges paid by intervening property owners.

(Code 1974, § 18-51; Code 1994, § 78-210; Code 2005, § 86-314)

Sec. 86-315. New subdivisions.

Where extensions of water or sewer lines are required to serve property which has been subdivided or platted for development and resale, the city will construct lines or mains under the provisions of this division upon deposit by the subdivider of the required prorated amount as set forth in this division to cover extensions to such subdivisions and across the frontage of the tract of land on an already existing and dedicated street of the city.

(Code 1974, § 18-52; Code 1994, § 78-211; Code 2005, § 86-315)

Sec. 86-316. Availability of funds or materials.

In no event may the city be required to make extensions in accordance with the provisions of this division if there are insufficient funds or material available for that purpose.

(Code 1974, § 18-53; Code 1994, § 78-212; Code 2005, § 86-316)

Sec. 86-317. Application of funds collected.

Any and all forms of money collected as a cost, fee or collection charge in the manner set out in this division shall be credited to the utility fund of the city.

(Code 1974, § 18-54; Code 1994, § 78-213; Code 2005, § 86-317)

Sec. 86-318. Existing lines exempt.

All property platted into lots or tracts of land and having adequate existing water and sanitary sewer mains or lines adjoining it shall be exempt from the prorated charges from main and line extension; provided, however, the usual and customary tapping fee shall be collected from the owners or their agents of such property before service connections are made to the existing mains or lines.

(Code 1974, § 18-55; Code 1994, § 78-214; Code 2005, § 86-318)

Sec. 86-319. Specifications of lines to be set by city.

The design, size, location, grade and point of connection of all water and sewer lines shall be set by the city and the city will pay the difference in cost of any water line required by them in excess of six-inch mains and will pay the difference in cost of any sewer lines in excess of eight-inch mains.

(Code 1974, § 18-56; Code 1994, § 78-215; Code 2005, § 86-319)

Sec. 86-320. When owner may install.

All water and sanitary sewer extensions shall be laid, constructed and installed by the city directly or by contract, except that the owner, or his duly authorized agent, of a tract of land may exercise the option of installing an extension to serve his property, including all mains, valves, hydrants and other appurtenances as specified by the city at his own expense and through a private contract, in which event that particular property will not be charged nor subjected to any additional prorated charges for water or sanitary sewer mains, nor will the person so constructing such water or sewer mains be entitled to any refunds therefor.

(Code 1974, § 18-57; Code 1994, § 78-216; Code 2005, § 86-320)

Sec. 86-321. No vested rights.

No person shall acquire any vested rights under the provisions of this division except the right of repayment of prorated charges.

(Code 1974, § 18-58; Code 1994, § 78-217; Code 2005, § 86-321)

Secs. 86-322--86-340. Reserved.

ARTICLE V. REGULATION OF STORMWATER RUNOFF

DIVISION 1. GENERALLY

Sec. 86-341. 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:

Accelerated erosion means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Applicant means a property owner or agent of a property owner who has filed an application for a stormwater management permit.

Authorized enforcement agency means employees or designees of the director of the municipal agency designated to enforce this article.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. The term "BMPs" also includes treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Building means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clean Water Act (CWA) means The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972 (33 USC 1251 et seq.), and any subsequent amendments thereto.

Clearing means any activity which removes the vegetative surface cover.

Commencement of construction means the initial disturbance of soils associated with clearing, grading, excavating activities, or other similar activities.

Construction activity means activities subject to TPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Construction site operator means the MS4 operator associated with a construction project that meets all of the following criteria:

(1) The operator has operational control over construction plans and specifications to the extent necessary to meet the requirements and conditions of this general permit; and

(2) The operator has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

Detention means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of streamflow or surface runoff and gradual release of stored water at controlled rates.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Drainageway means any channel that conveys surface runoff throughout the site.

Erosion and sediment control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Erosion control means measures that prevent erosion.

Facility or activity means any TPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the TPDES program.

Grading means excavation or fill of material, including the resulting conditions thereof.

Hazardous materials means any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Illicit connection means either of the following:

(1) Any drain or conveyance connecting an illicit discharge directly to the stormwater system, whether on the surface or subsurface, which allows an illegal discharge to enter the stormwater system, including, but not limited to, any conveyances which allow any non-stormwater discharge, including sewage, process wastewater, and wash water, to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to the stormwater system, except as exempted in ~~section 78-250~~ division 2 of this article.

Impervious cover means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Industrial activity means activities subject to NPDES or TPDES industrial permits as defined in 40 CFR 122.26(b)(14).

Industrial stormwater permit means a state pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the process of percolating stormwater into the subsoil.

Infiltration facility means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land disturbance activity or *land disturbing activity* means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

Municipal separate storm sewer system (MS4) means a separate storm sewer system owned or operated by a state, city, town, county, district, association, or other public body (created by or

pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization.

Non-stormwater discharge means any discharge to the stormwater system that is not composed entirely of stormwater.

Nonpoint source pollution means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, construction, subsurface disposal and urban runoff sources.

NPDES means the National Pollutant Discharge Elimination System.

Off-site facility means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-site facility means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Redevelopment means any construction, alteration or improvement exceeding one acre in areas where existing land use is high density commercial, industrial, institutional or multifamily residential.

Sediment control means measures that prevent eroded sediment from leaving the site.

Site means a parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site development permit means a permit issued by the city for ~~which the~~ construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

Stabilization means the use of practices that prevent exposed soil from eroding.

Stop work order means an order issued which requires that all construction activity on a site be stopped.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater management means the use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan (SWPPP or *SWP$_3$)* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Stormwater retrofit means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff means flow on the surface of the ground, resulting from precipitation.

Stormwater system means the system or network of stormwater and surface water management facilities managed and maintained by the city, including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities and other components as well as all natural waterways.

Stormwater treatment practices (STPs) means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and waterbodies.

TPDES means the Texas Pollutant Discharge Elimination System.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water which are delineated by the city.

Waterway means a channel that directs surface runoff to a watercourse, or to the public storm drain system.

(Code 1994, § 78-227; Code 2005, § 86-341; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-342--86-360. Reserved.

DIVISION 2. ILLICIT DISCHARGE AND CONNECTION

Sec. 86-361. Purpose; intent.

The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the stormwater system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this division are to:

(1) Regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;

(2) Prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(3) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this division.

(Code 2005, § 86-361; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-362. Applicability.

This division shall apply to all water entering the stormwater system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Code 2005, § 86-362; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-363. Responsibility for administration.

The city manager or his/her designee shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the authorized enforcement agency

may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Code 2005, § 86-363; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-364. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore, this division does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Code 2005, § 86-364; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-365. Discharge prohibitions.

(a) *Prohibition of illicit discharges*. It shall be unlawful for any person to discharge or cause to be discharged into the municipal stormwater system or watercourses any materials, including, but not limited to, pollutants, or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(1) The commencement, conduct or continuance of any illicit discharge to the stormwater system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this division:

1. Flushing of water lines or other potable water sources;
2. Landscape irrigation or lawn watering, diverted streamflows;
3. Rising groundwater and springs;
4. Uncontaminated groundwater infiltration;
5. Uncontaminated pumped groundwater;
6. Foundation or footing drains (not including active groundwater dewatering systems);
7. Crawl space pumps, air conditioning condensate;
8. Individual residential vehicle washing;
9. Vehicle washing fundraising events by not-for-profit organizations;
10. Natural riparian habitat or wetland flows;
11. Pavement and exterior building wash water conducted without the use of detergents or other chemicals; and
12. Swimming pools (if dechlorinated; typically less than one parts per million (PPM) chlorine), firefighting activities, and any other water source not containing pollutants.

b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

c. Dye testing, as long as a verbal notification is provided to the authorized enforcement agency prior to the time of the test.

d. Any non-stormwater discharge permitted under an NPDES or TPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other

applicable laws and regulations, and provided that further written approval has been granted for any discharge to the stormwater system.

(b) *Prohibition of illicit connections*.

(1) It shall be unlawful to construct, use, maintain or continue the existence of illicit connections to the city's storm drain system.

(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.

(3) A person is considered to be in violation of this division if the person connects a line conveying sanitary sewage to the MS4, or allows such a connection to continue.

(Code 2005, § 86-365; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-366. Suspension of MS4 access.

(a) *Suspension due to illicit discharges in emergency situations.* The city manager or his/her designee may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, the health or welfare of persons, the MS4, or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) *Suspension due to the detection of illicit discharge.* Any person discharging into the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(c) *Reinstatement without permission.* A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Code 2005, § 86-366; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-367. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES or TPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city manager or his/her designee prior to allowing discharges to the MS4.

(Code 2005, § 86-367; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-368. Submission of notice of intent to city.

(a) The operator of a facility, including construction sites, required to have a NPDES or TPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the city manager or his/her designee at the same time the operator submits the original notice of intent to the EPA or the TCEQ as applicable. The copy of the notice of intent may be delivered to the city manager or his/her designee either in person or by mail.

(b) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the notice of intent to do so to the city manager or his/her designee.

(Code 2005, § 86-368; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-369. Monitoring of discharges.

(a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to facilities.*

(1) The city manager or his/her designee shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division. If a facility has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the city manager or his/her designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES or TPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The city manager or his/her designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The city manager or his/her designee has the right to require the facility to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city manager or his/her designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the city manager or his/her designee access to a permitted facility is a violation of a stormwater discharge permit and of this division. A person who is the operator of a facility with a NPDES or TPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this division.

(7) If the city manager or his/her designee has been refused access to any part of the premises from which stormwater is discharged, and he is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Code 2005, § 86-369; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-370. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will adopt policies identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the stormwater system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES or TPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES and/or TPDES permit.

(Code 2005, § 86-370; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-371. Watercourse protection.

Every landowner who owns property, or is responsible for maintaining an easement through which a watercourse passes, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the landowner shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Code 2005, § 86-371; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-372. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or other person responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the stormwater system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city manager or his/her designee within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Code 2005, § 86-372; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-373. Enforcement.

(a) *Notice of violation.* Whenever the city manager or his/her designee finds that a person has violated a prohibition or failed to meet a requirement of this division, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

(b) *Notice for remediation and deadline.* If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Code 2005, § 86-373; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-374. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency to the city manager or his/her designee. The notice of appeal must be received within two days from the date of the notice of violation. Hearing on the appeal before the city manager or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the city manager or his/her designee shall be final.

(Code 2005, § 86-374; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-375. Enforcement measures after appeal.

If any violation of which a person has received notice as required by section 86-373 has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within ten days of the decision of the city manager or his/her designee upholding the decision, then representatives of the authorized enforcement agency shall enter upon the subject private property and take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or its designated contractor to enter upon the premises for the purposes set forth above.

(Code 2005, § 86-375; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-376. Cost of abatement of the violation.

In the event of action by the authorized enforcement agency as described in section 86-375, the owner of the property will be notified of the cost of abatement, including administrative costs, within 30 days after the abatement of the violation. The property owner may file a written protest objecting to the amount of the assessment within ten days. If the amount due is not paid within a timely manner as determined by the decision of the city manager or his/her designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Code 2005, § 86-376; Ord. No. 2005-01, § 2, 12-6-2004)

Secs. 86-377--86-390. Reserved.

DIVISION 3. EROSION AND SEDIMENT CONTROL

Sec. 86-391. Introduction/purpose.

(a) During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causes the silting of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of waterways. In addition, clearing grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for citizens of the city.

(b) The purpose of this division is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the city.

(Code 2005, § 86-391; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-392. Permits.

It shall be unlawful for any person to conduct any land disturbing activity without a permit issued by the city manager or his/her designee.

(1) No person shall be granted a permit for land disturbing activity which would require the uncovering of one acre or more, without the approval of an erosion and sediment control plan by the city manager or his/her designee.

(2) An erosion and sediment control plan is not required for the following activities:

   a. Any emergency activity immediately necessary for the protection of life, property or natural resources; or

   b. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(3) Each application for a permit to allow land disturbing activities shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan, and that a site operator shall be on site on all days where construction or grading activity takes place.

(Code 2005, § 86-392; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-393. Review and approval.

The city manager or his/her designee will review each erosion and sediment control plan to determine its conformance with the provisions of this local regulation. The city manager or his/her designee shall, in writing:

(1) Approve the plan;

(2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the approval subject to these conditions; or

(3) Disapprove the plan, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(Code 2005, § 86-393; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-394. Design requirements.

Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the city's design criteria manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city manager or his/her designee.

(Code 2005, § 86-394; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-395. Modifications to the plan.

Major amendments of the erosion and sediment control plan shall be submitted to the city manager or his/her designee and shall be processed and approved, or disapproved, in the same manner as the original plans. Field modifications of a minor nature may be authorized by the city manager or his/her designee by written authorization to the permittee.

(Code 2005, § 86-395; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-396. Clearing and grading.

Clearing and grading activities shall not be permitted, except when in compliance all other chapters of this Code. Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the stormwater design manual, shall be used to the satisfaction of the city manager or his/her designee.

(Code 2005, § 86-396; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-397. Inspection.

(a) The city manager or his/her designee shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee that the work fails to comply with the erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the city manager or his/her designee shall be maintained at the site during the progress of the work.

(b) The permittee or his agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plans. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to the city manager or his/her designee at the time interval specified in the approved permit.

(c) The city manager or his/her designee shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under the above mentioned section.

(Code 2005, § 86-397; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-398. Stop work order; revocation of permit.

In the event that any person holding a site development permit pursuant to this division violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city manager or his/her designee may suspend or revoke the site development permit, in addition to any other penalty provisions contained in this division.

(Code 2005, § 86-398; Ord. No. 2005-01, § 2, 12-6-2004)

Secs. 86-399--86-410. Reserved.

DIVISION 4. POST CONSTRUCTION STORMWATER RUNOFF

Sec. 86-411. General provisions.

(a) *Findings of fact.* It is hereby determined that:

(1) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;

(2) This stormwater runoff contributes to increased quantities of water-borne pollutants; and

(3) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the city establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

(b) *Purpose.* The purpose of this division is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This division seeks to meet that purpose through the following objectives:

(1) Minimize increases in stormwater runoff from any development in order to reduce flooding, silting, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;

(2) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;

(3) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable; and

(4) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

(c) *Applicability.* This division shall be applicable to all subdivision or site plan applications, unless eligible for an exemption by the city manager or his/her designee under the specifications of this division. The division also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

(1) To prevent the adverse impacts of stormwater runoff, the city has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing one or more acres of land. The following activities may be exempt from these stormwater performance criteria:

a. Additions or modifications to existing single-family structures;

b. Developments that do not disturb more than one acre of land, provided they are not part of a larger common development plan; or

c. Repairs to any stormwater treatment practice deemed necessary by the city manager or his/her designee.

(2) When a site development plan is submitted that qualifies as a redevelopment project as defined in this division, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current stormwater design manual. This criterion is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the city manager or his/her designee.

(d) *Design criteria manual.* The design criteria manual includes a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the city, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria shall meet the minimum water quality performance standards.

(Code 2005, § 86-411; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-412. Permit procedures and requirements.

(a) *Permit required.* No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this division prior to commencing the proposed activity.

(b) *Application requirements.* Unless specifically excluded by this division, any landowner or land operator desiring a permit for a land disturbance activity shall submit to the city manager or his/her designee a permit application on a form provided for that purpose.

(Code 2005, § 86-412; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-413. Exemptions to stormwater management requirements.

Exemptions for providing stormwater management are as follows:

(1) Every applicant shall provide for stormwater management as required by this division, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the city manager or his/her designee for approval.

(2) The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this division;

b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the city manager or his/her designee and the implementation of the plan is required by local ordinance;

c. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of

stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice; or

d. Nonstructural practices will be used on the site to reduce:

1. The generation of stormwater from the site;

2. The size and cost of stormwater storage; and

3. The pollutants generated at the site.

These nonstructural practices will be explained in detail in the stormwater design manual and the amount of credit available for using such practices shall be determined by the city manager or his/her designee.

(3) In instances where one of the conditions above applies, the city manager or his/her designee may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the city manager or his/her designee that the variance will not result in the following impacts to downstream waterways:

a. Deterioration of existing culverts, bridges, and other structures;

b. Degradation of biological functions or habitat;

c. Accelerated stream bank or streambed erosion or silting; or

d. Increased threat of flood damage to public health, life, property.

(Code 2005, § 86-413; Ord. No. 2005-01, § 2, 12-6-2004)

Chapters 87--89

RESERVED

Chapter 90

VEHICLES FOR HIRE*

*State law reference—Authority to regulate vehicles for hire, V.T.C.A., Local Government Code § 215.073.

ARTICLE I. IN GENERAL

Secs. 90-1--90-18. Reserved.

ARTICLE II. TOWING COMPANY ~~WRECKER SERVICE~~*

***Federal law references**--Federal law preempts local government regulation relating to price, route or service of any motor carrier respecting transportation of property, 49 USC 14501(c)(1); safety regulations by local governments are not preempted, 49 USC 14501(c)(2)(A); regulation of price of for-hire tows performed without prior consent of owner, exempt from preemption, 49 USC 14501(c)(2)(C).

State law reference—Tow truck regulation by political subdivisions, V.T.C.A., Occupations Code § 2308.201 ~~Transportation Code § 643.201~~ et seq.; authority for regulation by political subdivisions of fees for nonconsent tows, V.T.C.A., Occupations Code § 2308.203 ~~Transportation Code § 643.203~~; ~~storage of towed vehicles, nonconsent tows, V.T.C.A., Transportation Code § 643.206;~~ notification, impoundment and storage fees for vehicle storage facilities, V.T.C.A., Occupations Code § 2303.155.

DIVISION 1. GENERALLY

Sec. 90-19. 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:

~~*Auto wrecker* means any automobile, truck or other motor vehicle used for the purpose of towing, carrying, pushing, or otherwise transporting any wrecked or disabled motor vehicle from one place to another for any purpose, including, but not limited to, the purpose of wrecking, storing or repairing the vehicle. The term "auto wrecker" shall not be construed to include a service car or other vehicle not equipped with mechanical devices for transporting wrecked vehicles and not used for such purpose, such as service cars equipped with compressed air containers and tools for performing minor repairs not involving towing or transporting of wrecked or disabled vehicles or vehicles used by citizens on rare occasions to push or pull other disabled vehicles. This exception shall not authorize evasion of this chapter and if any vehicle, although not equipped with devices primarily used for towing wrecked or disabled vehicles, is actually used for such purposes through the means of ropes, chains or otherwise, the same shall be considered an auto wrecker within the terms of this article.~~

Consent tow means any tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term "consent tow" does not include an incident management tow or a private property tow.

~~*Consent tow* means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

~~*Motor vehicle* means a vehicle subject to the registration requirements of the V.T.C.A., Transportation Code ch. 501, or any other device designed to be self-propelled or transported on a public roadway.~~

Nonconsent tow means any tow of a motor vehicle that is not a consent tow, including:

(1) An incident management tow; and

(2) A private property tow.

~~*Nonconsent tow* means any tow of a motor vehicle that is not a consent tow.~~

Operate means to use a tow truck ~~an auto wrecker~~ to move a ~~motor~~ vehicle.

Permit holder means any person, corporation, limited liability company, limited liability partnership, partnership, or other entity created by the state or any other state, which has been issued a valid towing company ~~wrecker service~~ permit from the city authorizing performance of nonconsent tows within the corporate limits of the city in accordance with this article.

Police-authorized tow means a nonconsent tow and the towing of a ~~motor~~ vehicle when authorized by any police officer of the city rather than by the owner or person in possession of such ~~motor~~ vehicle, under circumstances of recovery of a stolen vehicle, removal of an abandoned, wrecked, illegally parked, or disabled ~~motor~~ vehicle, a custodial arrest where the owner or person in possession of the vehicle is incapable of making arrangements for removal of the vehicle, or any other circumstance where a police officer, in his official capacity, authorizes the towing of a ~~motor~~ vehicle and the owner or person in possession is not present or is not capable of making a determination with respect to such removal.

Preservation means the methods customarily used to protect the interior of a ~~motor~~ vehicle from weather when the windows of such vehicle are damaged.

Tow means the act of transporting or moving an inoperable, damaged, or otherwise disabled ~~motor~~ vehicle by means of hauling, pulling, winching, or otherwise.

Tow truck means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term "tow truck" does not include:

(1) A motor vehicle owned and operated by a governmental entity, including a public school district;

(2) A motor vehicle towing:

a. A race car;

b. A motor vehicle for exhibition; or

c. An antique motor vehicle;

(3) A recreational vehicle towing another vehicle;

(4) A motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;

(5) A motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle; or

(6) A motor vehicle that:

a. Is owned or operated by an entity the primary business of which is the rental of motor vehicles; and

b. Only tows vehicles rented by the entity.

Tow truck ~~*wrecker*~~ *driver* means a person who operates a tow truck ~~an auto wrecker~~ on the streets of the city, whether on his own account or in the employ of another.

Tow truck ~~*wrecker*~~ *owner* means any person who is engaged in the operation of a towing service ~~an auto wrecker for hire~~ and is the holder of a valid permit to operate such tow truck ~~auto wrecker~~ within the city.

Tow truck ~~*wrecker*~~ *permit* means a permit to be issued annually by the city, which authorizes the holder thereof to answer calls from the police department for police-authorized tows pursuant to a police-authorized tow agreement and nonconsent tows.

Towing company means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state, but does not include a political subdivision of the state.

Vehicle means a device in, on, or by which a person or property may be transported on a public roadway. The term "vehicle" includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively on a stationary rail or track.

Vehicle storage facility means a ~~motor~~ vehicle storage facility situated within the city, or within five miles of the city, that is operating under a current and valid license granted pursuant to the Vehicle Storage Facility Act (~~Vernon's Ann. Civ. St. art. 6687-9a or~~ V.T.C.A., Occupations Code § 2303.001 et seq.), and that is in compliance with all state rules and regulations governing vehicle storage facilities, as well as all city ordinances affecting same.

~~*Wrecker* means an auto wrecker.~~

(Code 1994, § 82-26; Code 2005, § 90-19; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-20. Permit required for nonconsent tows.

All towing ~~auto wrecker~~ companies used for performing nonconsent tows within the city shall have a valid tow truck ~~wrecker~~ permit issued by the city and all tow truck ~~auto wrecker~~ drivers must have a valid state tow truck ~~wrecker~~ operator's license.

(Code 1994, § 82-27; Code 2005, § 90-20; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-21. Nonconsent tows; notice.

(a) Whenever a person other than the registered owner or person in possession of a ~~motor~~ vehicle authorizes the tow of a vehicle, that person or his agent shall make an oral report to the city's police department within one hour of the time the vehicle was towed, which report shall include the following information:

(1) The license plate of the towed vehicle;

(2) The vehicle identification number of the towed vehicle;

(3) The year, make, model, and color of the towed vehicle;

(4) The name, address, primary e-mail address and telephone number of the person authorizing the tow;

(5) The location from which the vehicle was towed, the date and time of the tow, and the name, street address, primary e-mail address and telephone number of the vehicle storage facility to which the vehicle was taken; and

(6) The reason the vehicle was towed.

(b) In the case of a nonconsent tow, the tow truck ~~wrecker~~ driver shall, as soon as reasonably possible, disclose in writing to an owner or his representative:

(1) The location to which the vehicle is being towed;

(2) The telephone number at which information may be obtained regarding the vehicle and any applicable storage fees; and

(3) The name of the person or persons to whom complaints against the permitted auto wrecker drivers may be directed, if requested.

(c) The chief of police shall ensure that appropriate records are maintained on vehicles taken in nonconsent tows so owners of such vehicles may obtain information from the city's police department regarding the location of a towed vehicle.

(Code 1994, § 82-28; Code 2005, § 90-21; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-22. Police-authorized tows.

(a) No towing ~~auto wrecker~~ company may perform police-authorized tows unless authorized by a contract executed under this section.

(b) The chief of police may execute agreements to perform police-authorized tows with persons or companies that hold tow truck ~~wrecker~~ permits. The right to enter into such agreements shall be extended on a uniform basis to all eligible persons who own or operate permitted towing ~~wrecker~~ companies. Such agreements shall be upon such terms and conditions as approved by the city council.

(c) The chief of police shall not enter into an agreement on behalf of the city with any towing ~~wrecker operator~~ company if the company, or any employee or owner of the permit holder (including partners of a partnership and stockholders of a corporation), has had an agreement hereunder terminated for cause within the preceding five years. The foregoing provision shall apply to agreements that are not renewed or are terminated by the operator under threat of termination for cause in the same manner as those that have actually been terminated for cause.

(d) The applicant for a police-authorized tow agreement under this section shall have the right to appeal the decision of the chief of police denying such application to the city council within ten days, which appeal shall be perfected by delivering seven copies of same, in writing, to the city council, stating that an appeal of the decision of the chief of police is desired and the facts regarding same. The city council will schedule a hearing as soon as practicable after receiving the notice of appeal. After hearing the appeal, the city council shall, within a period of five days, sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police within the time provided above, the decision of the chief of police shall be final; otherwise, the decision of the city council shall become final.

(Code 1994, § 82-29; Code 2005, § 90-22; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-23. Parking upon arrival.

(a) Whenever a tow truck ~~an auto wrecker~~ arrives at a place where a ~~motor~~ vehicle is wrecked or disabled, the tow truck ~~auto wrecker~~ driver shall park his vehicle as close to the street curb as possible and otherwise dispose of it in such a manner as not to interfere with traffic. Once a police officer arrives on the scene, the tow truck ~~auto wrecker~~ driver shall park his vehicle in the location directed by the officer.

(b) The fact that a police officer is not present at the scene of an accident when a tow truck ~~an auto wrecker~~ driver arrives shall not constitute an exception to this section nor any other section, and it shall be the duty of the tow truck ~~wrecker~~ owner or driver desiring to tow or haul any wrecked or disabled vehicles from the scene of an accident to cause the police to be notified of the occurrence of the accident and to await the arrival of a police officer, if such accident resulted in injury or death of a person, property damage to an apparent extent of at least $500.00, or damage to public property.

(Code 1994, § 82-30; Code 2005, § 90-23; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-24. Designation of towing company.

(a) Upon arrival at the scene of a wrecked or disabled vehicle, the police officer shall determine if a police-authorized tow is necessary. If a police-authorized tow is necessary, the police

officer shall advise dispatch and a rotation list shall be utilized to dispatch the required number of tow trucks ~~wreckers~~ to the scene.

(b) If the owner or driver of a ~~motor~~ vehicle that is wrecked or disabled has a tow truck ~~wrecker~~ preference, that request will be honored unless it would cause undue delay and immediate towing is unnecessary. Any ~~wrecker or~~ towing company may tow the vehicle at the owner's or driver's request, as long as such company has a valid state tow tag and cab card. If the wrecked or disabled vehicle has any part or portion thereof upon the roadway, the tow truck ~~auto wrecker~~ driver responding to the owner's or driver's request shall have 15 minutes to arrive at the scene and remove such vehicle, or any part thereof, or such shorter period of time if, in the discretion of the police officer on the scene, such shorter period of time is necessary to protect the safety and welfare of the public; otherwise, the vehicle may be towed pursuant to a police-authorized tow.

(Code 1994, § 82-31; Code 2005, § 90-24; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-25. Required equipment.

The following equipment is required on every tow truck ~~auto wrecker~~ performing nonconsent tows within the city:

(1) Fire extinguisher, being defined as that piece of equipment commonly carried to extinguish fires caused as a result of an auto accident or collision. Such fire extinguisher shall be the standard BC type, either one ten-pound or two five-pound fire extinguishers with a gauge, properly filled and readily accessible for use.

(2) Three flares, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime.

(3) One broom of a type designed for pushing with an 18-inch head and a handle of not less than 36 inches in length.

(4) No less than five gallons of dry sand or other absorbent which is at least as effective as sand in absorbing liquid.

(5) One five-gallon container to carry glass and debris cleaned from streets when picking up a wrecked vehicle.

(6) One flat-edged shovel of at least nine inches in width, with a handle of not less than 36 inches in length.

(7) One wrecking bar of not less than 36 inches in length with a wedge head.

(8) At least one flashing light visible within 500 feet from a 360-degree radius.

(9) If the vehicle being towed does not have functional taillights, temporary lighting must be provided.

(10) If the tow truck ~~auto wrecker~~ is a heavy-duty tow truck ~~wrecker~~, it must be equipped with a winch capable of lifting a minimum of 30,000 pounds. If one winch line is used, it shall be at least three-fourths of an inch in diameter; if two winch lines are used, each shall be at least five-eighths-inch in diameter. Additionally, a heavy-duty tow truck ~~wrecker~~ shall be equipped with an "A" frame capable of being used for lifting vehicles, trucks, trailers, or equipment, air brakes and air lines, and must have a tow bar sufficient to prevent the swinging of any vehicles or equipment being transported by such heavy-duty tow truck ~~wrecker~~.

(Code 1994, § 82-32; Code 2005, § 90-25; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-26. Clearing debris.

(a) It shall be the duty of the tow truck ~~wrecker~~ driver of each tow truck ~~auto wrecker~~ that picks up a wrecked or disabled vehicle for the purpose of towing, to clear the street of any and all debris, parts, or glass. In the event two or more tow trucks ~~auto wreckers~~ pick up vehicles for towing, it shall be the duty of each driver to clear the street of debris, parts, or glass.

(b) Any other person who removes a wrecked or disabled vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(Code 1994, § 82-33; Code 2005, § 90-26; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-27. Charges, police-authorized and nonconsent tows.

(a) The maximum charges that a towing ~~an auto wrecker~~ company may charge for a police-authorized or nonconsent tow shall be set ~~from time to time~~ by resolution ~~adopted by the city council~~ and printed in Appendix D to this Code.

(b) All charges shall be listed on the tow truck's ~~auto wrecker's~~ invoice and the permit holder shall maintain, at the permit holder's place of business, copies of all invoices pertaining to nonconsent and police-authorized towing services for a period of two years from the invoice date. Any police officers may inspect such invoices during regular business hours. Every invoice required to be kept under this section shall contain the towed vehicle's description by make, model, year, license number, and name of the tow truck ~~wrecker~~ driver in addition to charges incurred. Every invoice for a nonconsent tow shall include the above information along with the name, address, primary e-mail address and phone number of the person authorizing the tow, and the reason the vehicle was towed, and the name, street address, primary e-mail address and telephone number where the vehicle was taken for storage. Every invoice for police-authorized tows shall also include the name and badge number of the police officer that authorized the tow.

(Code 1994, § 82-34; Code 2005, § 90-27; Ord. No. 2002-13, § 2, 7-1-2002)

Secs. 90-28--90-57. Reserved.

DIVISION 2. TOW TRUCK ~~AUTO WRECKER~~ SERVICE PERMITS

Sec. 90-58. Application.

Any company desiring to perform nonconsent tows within the city shall make application to the chief of police for a tow truck ~~wrecker~~ service permit, which application shall be submitted on a form provided by the chief of police, and signed and notarized. Each application shall contain the following information:

(1) A statement that the applicant ~~is a citizen of the United States and~~ has attained the age of 18 years.

(2) For each auto wrecker company for which a permit is sought, the applicant shall provide the following information:

a. Year and make;

b. Vehicle identification number;

c. Current state license plate number;

d. Name, address, primary e-mail address and telephone number of the tow truck's ~~auto wrecker's~~ owner; and the name, address, primary e-mail address and operator's license number for each person who will be an operator of each such tow truck ~~auto wrecker~~;

e. A certificate of insurance evidencing the type and amounts of coverage as required and specified by section 90-67;

f. A signed statement agreeing to comply with the tow truck ~~wrecker~~ service and vehicle storage fees established by the city;

g. A signed statement disclosing what, if any, pecuniary interest the tow truck ~~auto wrecker~~ operator may have in any person or entity that repairs or sells motor vehicles within the city;

h. A true and correct copy of the current tow truck ~~auto wrecker~~ vehicle registration for each tow truck ~~auto wrecker~~;

i. If the applicant is a corporation, a certificate of good standing issued by the Secretary of State of the State of Texas;

j. A statement of the fees the applicant proposes to charge for nonconsent tows, including fees, if any, for special towing services or equipment; and

k. A copy of a valid license issued pursuant to the Texas Vehicle Storage Facility Act, V.T.C.A., Occupations Code § 2303.001 et seq., for the storage facility the applicant proposes to use.

(3) If an applicant is a corporation, limited liability corporation, limited liability partnership, partnership, or any other entity created within the state or any other state, or proposes to operate under a name other than that of the applicant owner, the names and addresses of the corporate officers, partners, or the true business owner. A tow truck ~~wrecker~~ service permit issued to one such entity is not transferable to another without the written approval of the chief of police.

(Code 1994, § 82-51; Code 2005, § 90-58; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-59. Fee.

(a) The application for a tow truck service ~~wrecker~~ permit required by the provisions of this division shall be accompanied by the first annual permit fee as set out in Appendix D to this Code. There shall be one fee paid by each towing ~~auto wrecker~~ company that desires a permit, regardless of the number of tow trucks ~~auto wreckers~~ such company operates pursuant to the permit.

(b) Each such permit fee shall be paid annually, and must be paid not less than 30 days prior to expiration of such permit.

(Code 1994, § 82-52; Code 2005, § 90-59; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-60. Permit application hearing; considerations as to public convenience and necessity of applied for service.

(a) Each application filed shall be subject to review and public hearing at a time and place to be determined by the chief of police. Notice of such hearing shall be given to the applicant and to all persons to whom permits have already been issued. Notice to the general public shall be given by posting such notice at city hall not less than ten days prior thereto.

(b) In determining whether a permit will be issued to an applicant, the chief of police shall consider whether public convenience and necessity require the issuance of such permit. The determination may take into consideration the following:

(1) The demonstrated financial responsibility of the applicant;

(2) The number of vehicles the applicant proposes to operate;

(3) Whether the applicant has ever been convicted of any related felony or misdemeanor, as described in V.T.C.A., Government Code §§ 411.122 and 411.123;

(4) The make, model, and type of tow trucks ~~auto wreckers~~ and how each such tow truck ~~auto wrecker~~ is to be equipped;

(5) The location, size, and security afforded to each such vehicle storage facility to be used for towed vehicles;

(6) The reasonableness of fees proposed for towing and storage services by the applicant, and whether such fees comply with the schedule of fees therefor, as established from time to time by city council;

(7) Whether the towing ~~auto wrecker~~ company or the tow truck ~~auto wrecker~~ for which a permit is sought will be operated by the owner or by his employees, within the context of a bona fide employment relationship;

(8) Whether the applicant proposes to own, rent, or lease the tow truck ~~auto wrecker~~ to be used;

(9) Whether the applicant proposes to own, rent, or lease the vehicle storage facility to be used; and

(10) Whether public convenience and necessity will be met by issuance of an additional permit for the provision of tow truck ~~auto wrecker~~ services within the city.

(Code 1994, § 82-53; Code 2005, § 90-60; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-61. Time limitation on new application after denial.

An applicant denied a permit by the chief of police or by the city manager on appeal shall not be considered again for a permit for a period of one year from the date of the prior application.

(Code 1994, § 82-54; Code 2005, § 90-61; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-62. Special reporting requirements for created entities.

A permit holder doing business as a partnership, corporation, limited liability partnership, limited liability company, or any other form of entity created and recognized by state law, or by the law of any other state, shall be required to report, in writing, to the chief of police of any change in the ownership, directorship, or official management of such entity within ten days of such change. Failure to report any such changes shall be cause for immediate suspension or revocation of the permit held by the entity.

(Code 1994, § 82-55; Code 2005, § 90-62; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-63. Immediate storage of vehicles required; exception.

All vehicles towed by a tow truck ~~auto wrecker~~ permit holder shall be taken immediately to the permit holder's approved vehicle storage facility, unless instructed by a police officer or the owner of the vehicle to deliver the vehicle to another location.

(Code 1994, § 82-56; Code 2005, § 90-63; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-64. Hours of operation for vehicle storage facility.

A permit holder shall be responsible for maintaining and operating a vehicle storage facility so that vehicles may be received and released during the specified times required pursuant to the Texas Vehicle Storage Facility Act, V.T.C.A., Occupations Code § 2303.001 et seq.

(Code 1994, § 82-57; Code 2005, § 90-64; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-65. Removal of vehicle from accident scene.

No damaged or inoperative ~~motor~~ vehicle shall be removed from the scene of an accident by its owner or by a tow truck ~~an auto wrecker~~ service, without first notifying the police department.

(Code 1994, § 82-58; Code 2005, § 90-65; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-66. Solicitation.

No employee of the city shall recommend to any person, directly or indirectly, either by word or gesture, sign, or otherwise, the name of any particular tow truck ~~auto wrecker~~ service, nor shall any city employee influence or attempt to influence in any manner a decision of a person in choosing or selecting a tow truck ~~an auto wrecker~~ service.

(Code 1994, § 82-59; Code 2005, § 90-66; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-67. Insurance.

(a) Before any permit shall be issued under the provisions of this division, or before any renewal of such permit shall be granted, the applicant or permittee shall be required to file with the chief of police, and keep in full force and effect during the term of such permit, satisfactory evidence that the applicant or permittee has provided proof of financial responsibility to the state department of public safety, as that term is defined in the Texas Motor Vehicle Safety Responsibility Act (V.T.C.A., Transportation Code § 601.002 et seq.), and has complied with the provisions of such Act, as currently enforced or hereafter amended.

(b) The chief of police is authorized to promulgate reasonable regulations as to the type and character of evidence that shall be required to show that the applicant or permittee has provided proof of financial responsibility to the state department of public safety. If such proof of financial responsibility is evidenced by an insurance policy, such policy shall be carried with an insurance company authorized to do business in the state and performable in Harris and Galveston Counties. The chief of police shall suspend, cancel, or revoke any auto wrecker permit, without further notice to the applicant or permittee, if financial responsibility is found to not be in full force and effect at any time.

(c) The insurance required by this section shall be for limits of not less the minimum required by state law. Proof of insurance shall be in the form of a certificate of insurance issued to the city and must be attached to the tow truck ~~auto wrecker~~ permit application.

(Code 1994, § 82-60; Code 2005, § 90-67; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-68. Issuance.

After the applicant has filed a tow truck ~~an auto wrecker~~ permit application, permit fee, and certificate of insurance, and the chief of police has examined the same and found them to be in compliance with the terms of this division, and such application has been approved by the chief of police, the permit shall be issued to the applicant the appropriate permit to operate a tow truck ~~an auto wrecker~~ within the city.

(Code 1994, § 82-61; Code 2005, § 90-68; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-69. Contents.

Every permit issued under the provisions of this division shall be dated and numbered, shall bear upon its face a notice that the same expires one year from the date of issuance, and shall show the make, model, motor number, and state license number of each tow truck ~~auto wrecker~~ permitted to operate within the city and, where the applicant has entered into a police-authorized tow agreement with the city, the tow truck ~~wrecker~~ decal or license tag given to it by the chief of police.

(Code 1994, § 82-62; Code 2005, § 90-69; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-70. Replacement of vehicle.

Whenever a permittee wishes to discontinue the use of a tow truck ~~an auto wrecker~~ during the period covered by a permit and replace such tow truck ~~auto wrecker~~ with another, the permittee shall file an affidavit stating that the use of the tow truck ~~auto wrecker~~ covered by the permit has been discontinued, and that the tow truck ~~wrecker~~ owner desires to use another tow truck ~~auto wrecker~~ in its place. A certificate from the permit holder's surety or insurer shall be attached to the affidavit evidencing that such surety or insurer has been notified thereof and agrees thereto. The chief of police shall then issue to the permittee a supplemental permit covering the new tow truck ~~auto wrecker~~ and cause the description of the old tow truck ~~auto wrecker~~ to be canceled from the original permit. In the affidavit, the certificate from the surety or insurer, and the supplemental permit, the old and new tow trucks ~~auto wreckers~~ shall be described by make, model, motor number, state tow tag number, state license number, and decal or license tag, if applicable.

(Code 1994, § 82-63; Code 2005, § 90-70; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-71. Rules; regulations.

The chief of police is empowered to prescribe rules and regulations for displaying signs on tow trucks ~~auto wreckers~~ showing that the same have been licensed as herein provided. The name, address, and telephone number of the permit holder shall be clearly visible and shall, at a minimum, meet the following requirements:

(1) The name and telephone number of the permit holder shall be in letters not less than three inches in height and located on all doors of the tow truck ~~auto wrecker~~.

(2) The address of the permit holder shall be in letters not less than two inches in height and located on the doors of the tow truck ~~auto wrecker~~.

(Code 1994, § 82-64; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-72. Expiration.

All permits issued under the provisions of this division are nontransferable and shall be valid for a period of one year from the date of issuance.

(Code 1994, § 82-65; Code 2005, § 90-72; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-73. Revocation.

A permit issued under the provisions of this division may be denied, suspended, canceled, or revoked by order of the chief of police for any of the following reasons:

(1) The permit holder has not been in compliance with the requirements of this division at any time since the permit has been issued;

(2) The permit holder has committed any violation of state law regulating tow trucks ~~auto wreckers~~;

(3) The permit holder has committed any violation of city ordinances regulating tow trucks ~~auto wreckers~~;

(4) The permit holder has violated any rules or regulations issued by the authority of the chief of police;

(5) There have been three or more violations of city ordinances regulating tow trucks ~~auto wreckers~~ within any one-year period by any one tow truck ~~auto wrecker~~ driver operating a tow truck ~~wrecker~~ of the permit holder or by any other agents or employees of the permit holder;

(6) There have been four or more moving violations of the motor vehicle laws of the state within any one year by any one driver while operating a tow truck ~~wrecker~~ of the permit holder;

(7) The permit holder knowingly supplied false or incomplete information to obtain or maintain a permit;

(8) The permit holder has been convicted of a felony or placed on probation within the last three years, or convicted of a crime involving moral turpitude within the last ten years; or

(9) The permit holder, or his agent or employee, fails to respond to tow truck ~~wrecker~~ calls from the city's police department in such a manner as to create unnecessary delays in the removal of wrecked or disabled vehicles from the roadway.

(Code 1994, § 82-66; Code 2005, § 90-73; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-74. Appeal.

An applicant for a permit under this division shall have the right to appeal the decision of the chief of police to the city council within ten days of receipt of the notice denying such permit, which appeal shall be perfected by delivering, in writing, seven copies of same to the city council, stating that an appeal from the decision of the chief of police is desired and the facts regarding same. The city council will schedule a hearing as soon as practicable after receiving such notice of appeal, grant a hearing thereon, and after the hearing of the appeal shall, within a period of five days, sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police within the time provided above, the decision of the chief of police shall be final; otherwise, the decision of the city council shall become final.

(Code 1994, § 82-67; Code 2005, § 90-74; Ord. No. 2002-13, § 2, 7-1-2002)

Chapters 91--93

RESERVED

Chapter 94

WATERWAYS*

***State law reference**—Municipal authority concerning public waters within corporate limits, V.T.C.A., Parks and Wildlife Code § 31.092.

ARTICLE I. IN GENERAL

Secs. 94-1--94-18. Reserved.

ARTICLE II. BOATS

Sec. 94-19. Personal watercraft.

(a) No person shall operate a personal watercraft in the following manner or under the following circumstances:

(1) Unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V personal flotation device;

(2) If the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing, or personal flotation device of the operator as appropriate for the vessel involved;

(3) During the period between sunset and sunrise;

(4) Within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed;

(5) If the operator is under 13 years of age unless the operator is supervised by another person who:

a. Is at least 18 years of age;

b. Can lawfully operate the watercraft; and

c. Is on board the watercraft when under way;

(6) If the personal watercraft is a motorboat, within any area prohibited for operation of a motorboat by state law or local rule or regulation;

(7) While towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the towing vessel is designed to carry on board a minimum of two persons;

(8) By jumping the wake of another vessel recklessly or unnecessarily close to that vessel; or

(9) In a manner that requires the operator to swerve at the last possible moment to avoid collision.

(b) The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament, or exhibition.

(c) Subsection (a)(4) of this section does not prohibit the operation of personal watercraft on bodies of water less than 100 feet in width.

(d) An owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a manner prohibited by this section may be notified of the violation.

(e) For the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.

~~(a) No person shall operate personal watercraft under the following circumstances:~~

~~(1) Unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved type I, II, III or V personal flotation device.~~

~~(2) If the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing, or personal flotation device of the operator as appropriate for the vessel involved.~~

~~(3) Between the hours of one-half hour after sunset and one-half hour before sunrise.~~

~~(4) If the operator is under 12 years of age, unless accompanied by a person at least 16 years of age or older.~~

~~(5) Within any restricted or prohibited areas.~~

~~(b) The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament, or exhibition.~~

(Code 1994, § 86-75; Code 2005, § 94-19)

Sec. 94-20. Operation of motorboat.

No person may operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of this city unless the person is at least 13 years of age or is supervised by another person who:

(1) Is at least 18 years of age;

(2) Can lawfully operate the motorboat; and

(3) Is on board the motorboat when underway.

~~No person may operate a motorboat of over 15 horsepower on the public waters of this city unless the person is 13 years of age or older or:~~

~~(1) Is accompanied by a person 16 years of age or older.~~

~~(2) Has successfully passed a boating safety course prescribed and approved by the state parks and wildlife department.~~

(Code 1994, § 86-76; Code 2005, § 94-20)

Sec. 94-21. No wake zone.

No person may operate a motorboat so as to create a wake in a no wake zone. The chief of police may designate a no wake zone on any public water in the city. No wake zones shall be designated by a no wake sign or by buoy approved by the chief of police.

(Code 1994, § 86-77; Code 2005, § 94-21)

Secs. 94-22--94-45. Reserved.

ARTICLE III. RESTRICTED ACTIVITIES

Sec. 94-46. Jumping from structure.

No person may jump, leap, fall or swing from any publicly owned structure into the waters of this city.

(Code 1994, § 86-86; Code 2005, § 94-46)

Secs. 94-47--94-65. Reserved.

ARTICLE IV. WATER SAFETY

Sec. 94-66. General provisions.

(a) *Title*. This article may be cited as the "Water Safety Ordinance."

(b) *Policy*. It is the policy of this city to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the city; to promote safety in the operation and equipment of facilities; and to promote uniformity of laws relating to water safety.

(c) *Definitions*. The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Boat means a vessel not more than 65 feet in length, measured from the tip of the bow in a straight line to the stern.

~~*Boat* means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer.~~

Dealer means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year.

~~*Dealer* means a person customarily engaged in the business of buying, selling, or exchanging at least five vessels or outboard motors during a calendar year at an established or permanent place of business in this city and that at each place of business there is a sign conspicuously displayed showing the name of the dealership so that it may be located by the public and sufficient space to maintain an office, service area, and display of products.~~

Manufacturer means a person engaged in the business of manufacturing new and unused vessels and outboard motors for the purpose of sale or trade.

Motorboat means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

New means every vessel or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.

Operate means to navigate or otherwise use a motorboat or a vessel.

Outboard motor means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.

Owner means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

Personal watercraft means a motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

Reasonable time means 15 days.

Vessel means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

Water of this city means any public water within the territorial limits of this city.

(d) *Application of article*. The provisions of this article apply to all public water in this city and to all vessels on public water. Privately owned water is not subject to the provisions of this article.

(Code 1994, § 86-101; Code 2005, § 94-66; Ord. No. 2000-31, § 1, 9-11-2000)

Sec. 94-67. Required equipment.

(a) *Operation of vessels without required equipment prohibited*. No person may operate or give permission for the operation of a vessel that is not provided with the equipment required by this article.

(b) *Classes of motorboats*. Motorboats subject to the provisions of this article are divided into four classes according to length, as follows:

(1) Class A: Less than 16 feet in length.

(2) Class 1: Sixteen feet or over and less than 26 feet in length.

(3) Class 2: Twenty-six feet or over and less than 40 feet in length.

(4) Class 3: Forty feet in length or over.

(c) *Lights*. A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by the commandant of the U.S. Coast Guard for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

(d) *Whistles; bell*. A motorboat must have an efficient whistle or other sound-producing device if one is required by the commandant of the U.S. Coast Guard.

(e) *Life preserving devices*.

(1) A motorboat, including a motorboat carrying passengers for hire, must carry at least one wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.

(2) The operator of a motorboat less than 26 feet in length, while underway, shall require every passenger under 13 years of age to wear a wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

(3) A person may not operate a recreational vessel 16 feet or more in length unless the vessel is equipped with:

a. The number of wearable personal flotation devices required under subsection (e)(1) of this section; and

b. Additionally, at least one immediately accessible Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(4) A person under 13 years of age on board a vessel described by subsection (k) of this section must wear a wearable personal flotation device of the sort prescribed by the commandant of the Coast Guard while the vessel is under way.

(5) An adult operator of a vessel described by subsection (k) of this section may not permit a person under 13 years of age to be on board the vessel while the vessel is under way if the person under 13 years of age is not wearing a wearable personal flotation device required by subsection (e)(4) of this section.

~~(1) A motorboat must have at least one life preserver, life belt, ring buoy, or other device of the sort prescribed by the regulations of the commandant of the U.S. Coast Guard for each person onboard, so placed as to be readily accessible.~~

~~(2) A motorboat carrying passengers for hire must have a readily accessible life preserver of the sort prescribed by the regulations of the commandant of the U.S. Coast Guard for each person onboard.~~

~~(3) The operator of a class A or class 1 motorboat, while underway, shall require every passenger under 13 years of age to wear a life preserver of the sort prescribed by the regulations of the commandant of the U.S. Coast Guard. A life belt or ring buoy does not satisfy this requirement.~~

(f) *Fire extinguishers*.

(1) A motorboat must have the number, size, and type of fire extinguishers prescribed by the regulations of the commandant of the U.S. Coast Guard.

(2) The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

(g) *Flame arrestors; backfire traps*. A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by the regulations of the commandant of the U.S. Coast Guard.

(h) *Ventilators*. Each motorboat and vessel, except an open boat, using as fuel any liquid of a volatile nature must have the equipment prescribed by the regulations of the commandant of the U.S. Coast Guard designed to ventilate properly and efficiently the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(i) *Exhaust water manifold; muffler*. A motorboat operating on the water in this city must have an exhaust water manifold or a factory-type muffler installed on the engine.

(j) *Rearview mirrors*.

(1) A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the water in this city must have a rearview mirror of a size no less than four inches from bottom to top and across from one side to the other. The mirror must be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.

(2) Subsection (j)(1) of this section does not apply to vessels used in water ski tournaments, competitions, or exhibitions, or to a vessel that, in addition to its operator, has onboard a person 13 years of age or older observing the progress of the person being towed.

(k) *Canoes, punts, rowboats, sailboats, and rubber rafts; racing shells, rowing sculls, and racing kayaks; equipment exemptions.*

(1) All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements, except each vessel must have the following:

a. One Coast Guard approved wearable personal flotation device for each person aboard; and

b. The lights prescribed by the commandant of the Coast Guard for vessels and required under subsection (c) of this section.

(2) Notwithstanding subsection (k)(1) of this section, a vessel described by that subsection, except a canoe or kayak, that is 16 feet or more in length must be equipped with at least one Type IV personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(3) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the Coast Guard for vessels and required under subsection (c) of this section.

(4) In this section, "racing shell," "rowing scull," or "racing kayak" means a manually propelled boat:

a. Recognized by a national or international racing association for use in competitive racing;

b. Not designed or used to carry equipment serving any purpose other than competitive racing; and

c. In which each occupant, except a coxswain, rows, sculls, or paddles.

~~(1) Canoes, punts, rowboats, sailboats, and rubber rafts when paddled, poled, oared, or windblown are exempt from all required safety equipment except the following:~~

~~a. One U.S. Coast Guard-approved lifesaving device for each person aboard; and~~

~~b. The lights prescribed by the commandant of the U.S. Coast Guard for class A vessels and required under V.T.C.A., Parks and Wildlife Code § 31.064.~~

~~(2) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the U.S. Coast Guard for class A.~~

~~(3) In this section, the term "racing shell", "rowing scull," or "racing kayak" means a manually propelled boat:~~

~~a. Recognized by a national or international racing association for use in competitive racing;~~

~~b. Not designed or used to carry equipment serving any purpose other than competitive racing; and~~

~~c. In which each occupant, except a coxswain, rows, sculls or paddles.~~

(Code 1994, § 86-102; Code 2005, § 94-67; Ord. No. 2000-31, § 1, 9-11-2000)

Sec. 94-68. Boating regulation.

(a) *Rules of the road.* The United States Coast Guard Inland Rules apply to all public water of this city to the extent they are applicable.

(b) *Reckless or negligent operation.* No person shall operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a willfully or wantonly reckless or negligent manner that endangers the life, limb or property of any person.

(c) *Excessive speed.* No person shall operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

(d) *Reckless operation and excessive speed.* No person shall operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water located within municipal boundaries in willful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.

(e) *Hazardous wake or wash.* No person shall operate a motorboat so as to create a hazardous wake or wash.

(f) *Circular course around fisherman or swimmer.*

(1) No person may operate a motorboat in a circular course around:

a. Any other boat or personal watercraft any occupant of which is engaged in fishing, water-skiing, or a similar activity; or

b. Any person swimming.

(2) Subsection (f)(1) of this section does not apply to a person operating a motorboat in a circular course to retrieve a downed or fallen water-skier or other person engaged in a similar activity.

(3) No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

~~(1) No person shall operate a motorboat in a circular course around any other boat any occupant of which is engaged in fishing or around any person swimming.~~

~~(2) No swimmer or diver shall come within 200 yards of a sightseeing or excursion boat except for maintenance purposes or unless within an enclosed area.~~

~~(g) *Interference with markers or ramps.*~~

~~(1) No person shall moor or attach a boat to a buoy, beacon, light marker stake, flag, or other aid to safe operation placed upon the public water of this city. No person shall move, remove, displace, tamper with, damage, or destroy the markers or aids to safe operation.~~

~~(2) No person shall moor or attach a vessel to a public boat launching ramp except in connection with the launching or retrieving of a boat from the water.~~

~~(h) *Obstructing passage.*~~

~~(1) No person shall anchor a boat in the traveled portion of a river or channel so as to prevent, impede, or interfere with the safe passage of any other boat through the same area.~~

~~(2) No person shall anchor a vessel near a state-owned boat ramp so as to prevent, impede, or interfere with the use of the boat ramp.~~

(g) *Operating boats in restricted area.* No person shall operate a boat within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area designated by the state, the city, or another political subdivision of this state. This subsection does not apply to a patrol or rescue craft or in any case of any emergency.

(h) *Operating vessels in scuba diving or snorkeling areas.*

(1) No person shall operate a vessel within 50 feet of a buoy or of another vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(2) No person may operate a vessel at a speed greater than the minimum speed necessary to maintain steerageway and headway while the vessel is within 150 feet of a buoy or a vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(3) To be entitled to the protections of this subsection (h), a scuba diver or snorkeler shall prominently display a "diver down" flag from a buoy or vessel.

(4) This section does not apply:

a. To a person who is operating a patrol or rescue craft; or

b. In an emergency.

(5) Subsection (h)(1) of this section does not apply:

a. To a person who is already operating a vessel in an area when another person displays a "diver down" flag within 150 feet of that vessel;

b. To a person who is operating a vessel in a waterway that is less than 300 feet wide; or

c. To a person who has permission to enter the area from the person who placed the buoy or the person who is operating the vessel displaying the "diver down" flag.

(6) In this subsection (h), the term "diver down" flag means a square or rectangular red flag that has a diagonal white stripe and is at least 15 inches by 15 inches in size.

(i) *Water-skis, aquaplanes, etc.; time and manner of operation.*

(1) No person shall operate a vessel on any water of this city and tow a person or persons on water-skis, surfboards, or similar devices and no person shall engage in water-skiing, surfboarding, or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise. This subsection does not apply to motorboats or vessels used in water-ski tournaments, competitions, or exhibitions or trials ~~therefore~~ where ~~is~~ adequate lighting is provided.

(2) All motorboats having in tow or otherwise assisting in towing a person on water-skis, aquaplanes, or similar contrivances shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

(3) A person being towed on water-skis, aquaplanes, or similar devices by a vessel is considered an occupant of the vessel.

(Code 1994, § 86-103; Code 2005, § 94-68; Ord. No. 2000-31, § 1, 9-11-2000)

Sec. 94-69. Enforcement and penalties.

(a) *Enforcement officers.*

(1) All peace officers of this city that are certified as marine safety enforcement officers by the state parks and wildlife department are enforcement officers for the purpose of this article.

(2) The enforcement officers may enforce the provisions of this article by arresting and taking into custody any person who commits any act or offense prohibited by this article or who violates any provision of this article.

(b) *Water safety vessels; lights.* Only police water safety vessels and other vessels authorized under state law may use rotating or flashing blue beacon lights.

(c) *Required response to police water safety vessel.* The operator of a vessel underway, on sighting a rotating or flashing blue beacon light, shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

(d) *Inspection of vessels.*

(1) In order to enforce the provisions of this article, an enforcement officer may stop and board any vessel subject to this article and may inspect the boat to determine compliance with applicable provisions.

(2) An officer boarding a vessel shall first identify himself by presenting proper credentials.

(3) The operator of a vessel required by this article to hold a certificate of number aboard the vessel shall show the certificate to the officer on demand, and failure to do so constitutes a violation of this article.

(4) No person operating a boat on the water of this city shall refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this article.

(5) The safety of the vessel shall always be the paramount consideration of an arresting officer.

(6) If an enforcement officer determines that a vessel and its associated equipment are being used in violation of this article so as to create an especially hazardous condition, he shall direct the operator to return to mooring, and the vessel may not be used until the condition creating the violation is corrected.

(e) *Violation; notice to appear.*

(1) An enforcement officer who arrests a person for a violation of this article shall deliver to the alleged violator a written notice to appear within 15 days after the date of violation before the municipal court.

(2) The person arrested shall sign the notice to appear promising to make his appearance in accordance with the requirements set forth in the notice. After signing the notice, the person may be released. Failure to appear before the municipal court constitutes a violation of this article. A warrant for the arrest of the person failing to appear may be issued.

(f) *Penalties.*

(1) A person who violates or fails to comply with any provision of this article commits an offense that is a Class C parks and wildlife misdemeanor, and commits an offense punishable by a fine of not less than $25.00 or more than $500.00.

(2) The operator of a vessel who is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person shall comply with applicable state law requirements.

(Code 1994, § 86-104; Code 2005, § 94-69; Ord. No. 2000-31, § 1, 9-11-2000)

CODE OF ORDINANCES

CITY OF

FRIENDSWOOD, TEXAS

Published in 2018 by Order of the City Council

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OFFICIALS

of the

CITY OF

FRIENDSWOOD, TEXAS

AT THE TIME OF THIS RECODIFICATION

_____

[_Mayor_]
Mayor

_____

[_Council member_]
[_Council member_]
[_Council member_]
[_Council member_]
City Council

_____

[_Manager_]
City Manager

_____

[_Attorney_]
City Attorney

_____

[_Secretary_]
City Secretary

PREFACE

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

Source materials used in the preparation of the Code were the 2005 Code, as updated by ordinances subsequently adopted by the city council through Dec. 4, 2017. 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 2005 Code, as supplemented, and any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the

number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Bill Carroll, Senior Code Attorney, and Kellyn Wilcox, Editor, of the Municipal Code Corporation, 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 Melinda Welsh, City Secretary, and Arnold Polanco, City Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their 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.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the City of Friendswood, Texas. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; state law references; numbering system; code comparative table; state law reference table; and indexes. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Friendswood, Texas.

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TABLE OF CONTENTS

PART II 6
CITY CODE 6
CHAPTER 1 GENERAL PROVISIONS 6
CHAPTER 2 ADMINISTRATION 13
ARTICLE I. IN GENERAL 13
ARTICLE II. BOARDS, COMMITTEES AND COMMISSIONS 13
DIVISION 1. GENERALLY 13
DIVISION 2. BOARD OF ADJUSTMENT 13
DIVISION 3. PLANNING AND ZONING COMMISSION 13
ARTICLE III. EMPLOYEE BENEFITS 15
DIVISION 1. GENERALLY 15
DIVISION 2. FEDERAL OLD AGE AND SURVIVORS BENEFITS 17
ARTICLE IV. RECORDS AND INFORMATION MANAGEMENT 18
ARTICLE V. FINANCE 21
CHAPTERS 3—5 RESERVED 22
CHAPTER 6 ALCOHOLIC BEVERAGES 23
ARTICLE I. IN GENERAL 23
ARTICLE II. PROHIBITION OF NUDITY IN COMMERCIAL ESTABLISHMENTS SERVING OR PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES 24
CHAPTERS 7—9 RESERVED 26
CHAPTER 10 ANIMALS 27
ARTICLE I. IN GENERAL 27
ARTICLE II. DOGS AND CATS 36
DIVISION 1. GENERALLY 36
DIVISION 2. LICENSE 36
DIVISION 3. RABIES IMMUNIZATION 38
ARTICLE III. DANGEROUS AND VICIOUS ANIMALS 39
ARTICLE IV. RABIES CONTROL 42
ARTICLE V. IMPOUNDMENT 45
ARTICLE VI. ANIMAL ESTABLISHMENTS 46
ARTICLE VII. ANIMAL SHELTER ADVISORY COMMITTEE 49
CHAPTERS 11—13 RESERVED 50
CHAPTER 14 BUILDINGS AND BUILDING REGULATIONS 51
ARTICLE I. IN GENERAL 51
ARTICLE II. BUILDING CODE 52
ARTICLE III. ELECTRICAL CODE 54
DIVISION 1. GENERALLY 54
DIVISION 2. APPEALS 57
DIVISION 3. ELECTRICAL INSPECTOR 57
DIVISION 4. PERMITS 59
DIVISION 5. INSPECTIONS 62
DIVISION 6. ELECTRICIAN'S LICENSES 63
ARTICLE IV. PLUMBING CODE 63
ARTICLE V. MECHANICAL CODE 65
ARTICLE VI. FUEL GAS CODE 66
ARTICLE VII. SUBSTANDARD BUILDINGS AND STRUCTURES 67
ARTICLE VIII. SWIMMING POOLS 77
ARTICLE IX. MISCELLANEOUS CODES 77
CHAPTERS 15—17 RESERVED 79

CHAPTER 18 BUSINESSES 80
ARTICLE I. IN GENERAL 80
ARTICLE II. PEDDLERS, SOLICITORS, CANVASSERS, ITINERANT VENDORS 80
DIVISION 1. GENERALLY 80
DIVISION 2. REGISTRATION 82
CHAPTERS 19—21 RESERVED 87
CHAPTER 22 CIVIL EMERGENCIES 88
ARTICLE I. IN GENERAL 88
ARTICLE II. EMERGENCY MANAGEMENT 88
ARTICLE III. ASSISTANCE TO COUNTIES AND OTHER CITIES 91
ARTICLE IV. PRICE CONTROL MEASURES 92
CHAPTERS 23—25 RESERVED 93
CHAPTER 26 ENVIRONMENT 94
ARTICLE I. IN GENERAL 94
ARTICLE II. AIR POLLUTION 94
DIVISION 1. GENERALLY 94
DIVISION 2. SMOKING TOBACCO 94
ARTICLE III. SANITARY NUISANCES 94
ARTICLE IV. GRASS, WEEDS, BRUSH, RUBBISH 97
DIVISION 1. GENERALLY 97
DIVISION 2. ABATEMENT 98
ARTICLE V. JUNKED VEHICLES 101
ARTICLE VI. LITTER 104
ARTICLE VII. OIL AND GAS 105
DIVISION 1. GENERALLY 105
DIVISION 2. PERMITS 111
DIVISION 3. BOND, LETTERS OF CREDIT, INSURANCE AND INDEMNITY 121
DIVISION 4. OPERATOR PLANS AND REPORTS 122
DIVISION 5. ON-SITE AND TECHNICAL REGULATIONS 128
DIVISION 6. PIPELINES AND COMPRESSOR STATIONS 135
CHAPTERS 27—29 RESERVED 139
CHAPTER 30 FIRE PROTECTION AND PREVENTION 140
ARTICLE I. IN GENERAL 140
ARTICLE II. FIRE MARSHAL 140
ARTICLE III. FIRE CODES 141
DIVISION 1. GENERALLY 141
DIVISION 2. INTERNATIONAL FIRE CODE 141
DIVISION 3. LIFE SAFETY CODE 142
ARTICLE IV. FIREWORKS 143
CHAPTERS 31—33 RESERVED 147
CHAPTER 34 FLOODS 148
ARTICLE I. IN GENERAL 148
ARTICLE II. FLOOD DAMAGE PREVENTION 148
DIVISION 1. GENERALLY 148
DIVISION 2. FLOOD HAZARD REDUCTION 156
CHAPTERS 35—37 RESERVED 160
CHAPTER 38 HEALTH AND SANITATION 161
ARTICLE I. IN GENERAL 161
ARTICLE II. FOOD AND FOOD SERVICE ESTABLISHMENTS 161
DIVISION 1. GENERALLY 161
DIVISION 2. FOOD HANDLERS 161

DIVISION 3. FOOD SERVICE ESTABLISHMENTS....163
CHAPTERS 39—41 RESERVED....167
CHAPTER 42 LAW ENFORCEMENT....168
ARTICLE I. IN GENERAL....168
ARTICLE II. POLICE RESERVE FORCE....169
CHAPTERS 43—45 RESERVED....171
CHAPTER 46 LIBRARY....172
ARTICLE I. IN GENERAL....172
ARTICLE II. FRIENDSWOOD PUBLIC LIBRARY....172
CHAPTERS 47—49 RESERVED....173
CHAPTER 50 MANUFACTURED HOMES AND TRAILERS....174
ARTICLE I. IN GENERAL....174
ARTICLE II. MOBILE HOMES AND MOBILE HOME PARKS....174
DIVISION 1. GENERALLY....174
DIVISION 2. MOBILE HOMES....177
DIVISION 3. MOBILE HOME PARKS....177
SUBDIVISION I. IN GENERAL....178
SUBDIVISION II. CONSTRUCTION PERMIT....179
SUBDIVISION III. PARKING PERMIT....180
SUBDIVISION IV. LICENSE....181
SUBDIVISION V. INSPECTION....183
SUBDIVISION VI. PLANS AND SPECIFICATIONS....183
ARTICLE III. INDUSTRIALIZED HOUSING AND COMMERCIAL BUILDINGS....188
CHAPTERS 51—53 RESERVED....191
CHAPTER 54 OFFENSES AND MISCELLANEOUS PROVISIONS....192
ARTICLE I. IN GENERAL....192
ARTICLE II. CURFEW FOR MINORS....193
ARTICLE III. PROTECTION OF CITIZENS, EMPLOYEES, MUNICIPAL PROPERTY....196
ARTICLE IV. NOISE....197
ARTICLE V. ALARM SYSTEMS....202
ARTICLE VI. SEX OFFENDERS....213
ARTICLE VII. ILLICIT SYNTHETIC DRUGS....215
CHAPTERS 55—57 RESERVED....217
CHAPTER 58 PARKS AND RECREATION....218
ARTICLE I. IN GENERAL....218
ARTICLE II. PARKS....218
DIVISION 1. GENERALLY....218
DIVISION 2. PERMITS....218
DIVISION 3. USE REGULATIONS....219
CHAPTERS 59—61 RESERVED....222
CHAPTER 62 SEXUALLY ORIENTED BUSINESSES....223
ARTICLE I. IN GENERAL....223
ARTICLE II. REGULATIONS....223
CHAPTERS 63—65 RESERVED....239
CHAPTER 66 SOLID WASTE....240
ARTICLE I. IN GENERAL....240
ARTICLE II. COLLECTION AND DISPOSAL....240
DIVISION 1. GENERALLY....240
DIVISION 2. CONTAINERS....241
CHAPTERS 67—69 RESERVED....242
CHAPTER 70 STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES....243

ARTICLE I. IN GENERAL....243
ARTICLE II. STREETS GENERALLY....243
ARTICLE III. CONSTRUCTION....246
ARTICLE IV. EXCAVATIONS....256
DIVISION 1. GENERALLY....256
DIVISION 2. PERMITS....256
DIVISION 3. RIGHT-OF-WAY MANAGEMENT....258
CHAPTERS 71—73 RESERVED....269
CHAPTER 74 TAXATION....270
ARTICLE I. IN GENERAL....270
ARTICLE II. OCCUPATION TAX....270
ARTICLE III. IMPACT FEES....271
ARTICLE IV. TELECOMMUNICATIONS....275
CHAPTERS 75—77 RESERVED....276
CHAPTER 78 TELECOMMUNICATIONS....277
ARTICLE I. IN GENERAL....277
ARTICLE II. USE OF RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS....277
CHAPTERS 79—81 RESERVED....294
CHAPTER 82 TRAFFIC AND VEHICLES....295
ARTICLE I. IN GENERAL....295
ARTICLE II. STOPPING, STANDING, PARKING....297
DIVISION 1. GENERALLY....297
DIVISION 2. FIRE LANES....298
ARTICLE III. SPECIFIC STREET REGULATIONS....301
CHAPTERS 83—85 RESERVED....304
CHAPTER 86 UTILITIES....305
ARTICLE I. IN GENERAL....305
ARTICLE II. WATER....307
DIVISION 1. GENERALLY....307
DIVISION 2. CONNECTIONS....319
DIVISION 3. USE REGULATIONS....320
DIVISION 4. RATES, CHARGES, FEES....327
ARTICLE III. SANITARY SEWER SYSTEM....331
DIVISION 1. GENERALLY....331
DIVISION 2. CONNECTIONS....331
DIVISION 3. USE REGULATIONS....332
SUBDIVISION I. IN GENERAL....332
SUBDIVISION II. INFILTRATION....333
DIVISION 4. RATES, CHARGES, FEES....336
ARTICLE IV. EXPANSION AND EXTENSION OF SERVICE....336
DIVISION 1. GENERALLY....336
DIVISION 2. EXPANSION OF SERVICE....336
DIVISION 3. EXTENSION OF SERVICE LINES....337
ARTICLE V. REGULATION OF STORMWATER RUNOFF....339
DIVISION 1. GENERALLY....339
DIVISION 2. ILLICIT DISCHARGE AND CONNECTION....343
DIVISION 3. EROSION AND SEDIMENT CONTROL....348
DIVISION 4. POST CONSTRUCTION STORMWATER RUNOFF....350
CHAPTERS 87—89 RESERVED....354
CHAPTER 90 VEHICLES FOR HIRE....355
ARTICLE I. IN GENERAL....355

ARTICLE II. TOWING COMPANY 355
DIVISION 1. GENERALLY 355
DIVISION 2. TOW TRUCK SERVICE PERMITS 360
CHAPTERS 91—93 RESERVED 365
CHAPTER 94 WATERWAYS 366
ARTICLE I. IN GENERAL 366
ARTICLE II. BOATS 366
ARTICLE III. RESTRICTED ACTIVITIES 367
ARTICLE IV. WATER SAFETY 367

PART II
CITY CODE

Chapter 1
GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Friendswood, Texas", or the "Friendswood City Code" and may be so cited; and when referred to generally shall include the Charter.

(Code 1974, § 1-1; Code 1994, § 1-1; Code 2005, § 1-1)

Charter reference—Authority to codify ordinances, § 3.14(b).

State law reference—Authority to adopt a civil and criminal code of ordinances, V.T.C.A., Local Government Code § 53.001.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, and 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.

Agencies, officers. Any reference to any federal, state or local agency or officer shall include any successor agency or officer.

City. The term "city" means the City of Friendswood located in the Counties of Galveston and Harris, State of Texas.

City manager, city secretary, chief of police or *other city officers.* The terms "city manager," "city secretary," "chief of police" and other city officers, boards, committees, commissions or departments mean the city manager, city secretary, chief of police or such other city officers, boards, committees, commissions or departments, respectively, of the city. Reference to an officer or employee by title shall include his duly authorized assistants or representatives.

Code. Whenever the term "Code" is used in this Part II to the Code, it means the Friendswood City Code.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday. If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month of the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Council, city council. The term "council" or "city council" means the City Council of the City of Friendswood, Texas.

County. The term "county" means the County of Harris or the County of Galveston in the State of Texas, as the context requires.

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

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

Number. Any term importing the singular number includes the plural and any term importing the plural number includes 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 terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

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

Owner. The term "owner," applied to a building or land, includes 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, fiduciaries, representatives and bodies politic and corporate as well as to individuals.

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

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

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

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

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

Tex. Admin. Code, TAC. The abbreviations "Tex. Admin. Code" and "TAC" refer to the Texas Administrative Code, as amended or revised now or in the future.

V.T.C.A. The abbreviation "V.T.C.A." means the most recent edition or supplement of Vernon's Texas Codes Annotated, as amended or revised now or in the future.

Vernon's Ann. Civ. St. The abbreviation "Vernon's Ann. Civ. St." means and includes the most recent edition or supplement of Vernon's Annotated Texas Statutes, Vernon's Annotated Civil Statutes, and Vernon's Texas Civil Statutes, as amended or revised now or in the future.

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 1974, § 1-3; Code 1994, § 1-2; Code 2005, § 1-2; Ord. No. 2010-30, § 1, 10-18-2010)

State law reference—General definitions, V.T.C.A., Government Code § 311.005.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1974, § 1-2; Code 1994, § 1-3; Code 2005, § 1-3)

Sec. 1-4. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

(Code 1994, § 1-4; Code 2005, § 1-4)

Sec. 1-5. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

(Code 1994, § 1-5; Code 2005, § 1-5)

Sec. 1-6. References and editor's notes.

The references and editor's notes appearing throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

(Code 1994, § 1-6; Code 2005, § 1-6)

Sec. 1-7. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

(Code 1994, § 1-7; Code 2005, § 1-7)

Sec. 1-8. Provisions considered as continuation of existing ordinances.

The provisions appearing in this Code so far as they are the same as those of the Friendswood City Code of 2005 and of ordinances existing at the time of adoption of this Code shall be considered as a continuation thereof and not as new enactments.

(Code 1994, § 1-8; Code 2005, § 1-8)

Sec. 1-9. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;

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

(3) Any contract or obligation assumed by the city;

(4) Any right or franchise granted by the city;

(5) Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any street or public way in the city;

(6) Any ordinance relating to municipal street maintenance agreements with the state;

(7) Any ordinance establishing or prescribing grades for streets in the city;

(8) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;

(9) Any ordinance relating to local improvements and assessments therefor;

(10) Any ordinance annexing territory to the city or discontinuing territory as a part of the city;

(11) Any ordinance dedicating or accepting any plat or subdivision in the city;

(12) Any urban renewal ordinance;

(13) Any ordinance regarding the Texas Municipal Retirement System;

(14) Any ordinance prescribing personnel policies, procedures, or salaries and wages;

(15) Any ordinance regarding elections;

(16) Any ordinance establishing or amending the zoning map, or rezoning property;

(17) Any ordinance prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no parking areas, truck routes, stop intersections, intersections where traffic is to be controlled by signals, etc.;

(18) Any ordinance prescribing any fee or payment of money to the city for licenses or any other fee or tax;

(19) Any ordinance that is temporary although general in effect;

(20) Any ordinance that is special although permanent in effect;

(21) Any ordinance containing any administrative provisions.

All such ordinances shall remain in effect and are on file in the city secretary's office.

(Code 1994, § 1-9; Code 2005, § 1-9; Ord. No. 230, § 3, 10-7-1974)

Sec. 1-10. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

(Code 1994, § 1-10; Code 2005, § 1-10)

Sec. 1-11. Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make such addition or amendment a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by the omission thereof from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Friendswood City Code is hereby amended to read as

follows: . . .." The new provisions shall then be set out in full and underlined and material to be omitted shall be enclosed in brackets.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Friendswood City Code is hereby amended by adding a section to be numbered _____, which section reads as follows: . . .." The new section may then be set out in full and underlined.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be, setting such provisions out in full enclosed in brackets.

(Code 1994, § 1-11; Code 2005, § 1-11)

Charter reference—Procedure for ordinances, § 3.11; codification, § 3.14(b).

Sec. 1-12. 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, and shall also include all amendments to the Charter during the period. 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 in the Code, the Code will be current through the date of 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 the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person 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 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 sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance 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 1974, § 1-4; Code 1994, § 1-12; Code 2005, § 1-12)

Charter reference—Method of amending, § 3.14(a); supplements to Code, § 3.14(c).

Sec. 1-13. 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 this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1974, § 1-5; Code 1994, § 1-13; Code 2005, § 1-13)

Sec. 1-14. General penalty for violations of Code; continuing violations.

(a) Whenever in this Code or any other ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine not exceeding $500.00, except for:

(1) Violations of municipal ordinances that govern fire, safety, zoning, public health and sanitation, other than the dumping of refuse, in which the maximum fine shall be $2,000.00 for each offense;

(2) Violations of municipal ordinances that govern dumping of refuse shall have a maximum fine of $4,000.00; and

(3) Violations of traffic laws which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed $200.00.

However, no penalty shall be greater or less than the penalty provided for the same or 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. Any violation of any provision of this Code of Ordinances which constitutes an immediate danger to the health, safety, and welfare of the public may be enjoined in a suit brought by the city for such purposes. If any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the city in addition to the imposition of a fine or imprisonment.

(c) Unless otherwise specifically stated within the provisions of this Code, any violation of this Code or of any ordinance set forth herein that is punishable by a fine that does not exceed $500.00 does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense.

(d) Unless otherwise specifically stated within the provisions of this Code, any violation of this Code or of any ordinance set forth herein that is punishable by a fine that exceeds $500.00 shall require a culpable mental state of intentionally, knowingly, recklessly or with criminal negligence.

(e) In any prosecution in the municipal court of the city or of any other court of competent jurisdiction, a complaint charging a violation of this Code need not negate the existence of any affirmative defense but the existence of such may be raised by the defendant in any such prosecution by way of defense as provided in the Texas Penal Code.

(f) A complaint charging a violation of any provision of this Code in the municipal court of the city or any other court of competent jurisdiction need not negative the existence of any exception but the existence of the same may be raised by the defendant in such prosecution by way of defense.

(g) The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under the provisions of this Code.

(Code 1974, § 1-6; Code 1994, § 1-14; Code 2005, § 1-14)

Charter reference—Council to set by ordinance the fine for violation of § 3.16 of Charter, pertaining to refusal to obey summons from council, § 3.16.

State law reference—Authority to city to prescribe penalties for violation of Code of Ordinances, punishment for violation of ordinance, V.T.C.A., Local Government Code § 54.001; municipal court criminal jurisdiction, V.T.C.A., Government Code § 29.003; punishments, V.T.C.A., Penal Code ch. 12.

Chapter 2

ADMINISTRATION*

***Charter reference**—City council, art. III; meetings of city council, § 3.09; ordinance adoption procedure, publishing requirements, etc., § 3.11; bonds for city officers and employees, § 3.15; administrative services, art. IV; city manager, § 4.01; municipal court, § 4.02; city attorney, § 4.03; city secretary, § 4.04; administrative departments, § 4.05; personnel policies, § 4.05(e); personnel system, § 4.06; campaign contributions prohibited from city employees, § 4.06(c); initiative and referendum, art. V; recall of elected officers, § 5.08; city council candidates, nomination, election, oath, art. VI; elections, art. VI; resignation to run for another office, § 6.02(a)(5); oath, § 6.05; official newspaper, § 11.02.

State law reference—Organization of municipal government, V.T.C.A., Local Government Code ch. 5 et seq.; form of government in home-rule municipality, V.T.C.A., Local Government Code ch. 26.

ARTICLE I. IN GENERAL

Sec. 2-1. City to comply with building codes, land use and zoning regulations.

Notwithstanding any provision contained in any ordinance, rule, policy or procedure of the city to the contrary, the city shall not be immune from its rules and regulations governing building and development. Construction by the city of any building or facility, whether for a governmental or proprietary purpose, shall be conducted in accordance with all rules and regulations of the city that would be otherwise applicable to private sector building or development. Specifically, the city shall adhere to all of its adopted building codes and zoning or other land use regulations.

(Code 2005, § 2-1; Ord. No. 2006-14, § 1, 7-10-2006)

Secs. 2-2--2-18. Reserved.

ARTICLE II. BOARDS, COMMITTEES AND COMMISSIONS*

***Charter reference**—Oath of office, § 6.05; charter review commission, § 11.09.

DIVISION 1. GENERALLY

Secs. 2-19--2-39. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT

Secs. 2-40--2-68. Reserved.

DIVISION 3. PLANNING AND ZONING COMMISSION*

***State law reference**—Zoning commission, V.T.C.A., Local Government Code § 211.007.

Sec. 2-69. Created; composition; term of office; removal; filling of vacancies; compensation.

(a) There is hereby created for the city a planning and zoning commission, to be composed of seven members. Such members shall be resident citizens and qualified voters of the city, all of whom shall be appointed by the mayor, subject to confirmation by a majority vote of the city council. All vacancies caused by expiration of terms shall be filled for terms of three years.

(b) Any member of the planning and zoning commission may be removed by the mayor and the city council at any time, with or without cause.

(c) All vacancies for unexpired terms on the planning and zoning commission caused by either resignation, death or removal shall be filled for the remainder of the unexpired term by appointment made by the mayor with the confirmation of a majority vote of the city council.

(d) Members of the planning and zoning commission shall serve without compensation.

(Code 1974, § 2-1; Code 1994, § 2-46; Code 2005, § 2-69)

Sec. 2-70. Ex officio members.

There shall be two ex officio members of the planning and zoning commission, composed of the city secretary and one councilmember who shall be annually selected by the mayor for a one-year term. The ex officio members shall act in an advisory capacity and shall not have the power to vote.

(Code 1974, § 2-2; Code 1994, § 2-47; Code 2005, § 2-70)

Sec. 2-71. Organization; bylaws.

The planning and zoning commission shall elect a chair and vice-chair from its membership and shall have the power to employ such qualified persons as may be necessary for the proper conduct and undertakings of the commission and to pay for their services and other necessary expenses, provided that the cost of such services and expenses shall not exceed the amount appropriated by the city council for the use of the commission. The commission shall also have the power to make rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the city council, and such rules, regulations and bylaws shall be subject to approval by the council. Such bylaws shall include, among other items, provisions for:

(1) Regular and special meetings, to be open to the public;

(2) Records of its proceedings, to be open for the inspection of the public;

(3) Reporting to the city council and the public from time to time and annually; and

(4) The holding of public hearings on its recommendations.

(Code 1974, § 2-3; Code 1994, § 2-48; Code 2005, § 2-71)

Sec. 2-72. Advisory function.

It shall be the duty of the planning and zoning commission to act as an advisory board to the city council and to act on all matters referred to it by the council.

(Code 1974, § 2-4; Code 1994, § 2-49; Code 2005, § 2-72)

Sec. 2-73. Cooperation by other officials, etc.

All department heads and officials of the city shall be available to the planning and zoning commission for advice and consultation and they shall cooperate with and render such services for the commission as shall come within the scope of the duties of such department heads and officials and city employees.

(Code 1974, § 2-5; Code 1994, § 2-50; Code 2005, § 2-73)

Sec. 2-74. Powers and duties.

The planning and zoning commission shall have the power and authority and it shall be its duty, with the consent and at the direction of the city council, to:

(1) Make studies and project plans for the improvements of the city with a view of its development and extension, recommend to the city council all matters for the development and advancement of city facilities, layouts and appearance, and perform the duties imposed upon the planning and zoning commission by the statutes of the state, and specifically V.T.C.A., Local Government Code § 212.001 et seq.;

(2) Make plans and maps of the whole or any portion of the city, and of land outside the city located within the 100-foot strip and any other land outside the city which, in the opinion of the commission, bears relation to the planning of the city, and make such changes, additions and extensions of plans or maps within the city as it deems to be available;

(3) Confer with and advise private property owners pertaining to the location and erection of private structures with the view of having such structures conform to the overall city plan, and advise with the building inspector in the performance of his duties;

(4) Aid and assist the mayor and city council in the preparation of the city budget and determination of sources of funds and in the procuring of financial and other aid and assistance for the city from the state and the federal governments and their agencies for all of the purposes enumerated in this division;

(5) Act with and assist all other municipal and governmental agencies and especially the city council in formulating and executing proper plans for municipal development;

(6) Plan and recommend the location, plan and extent of city alleyways, parks, playgrounds, airports, automobile parking and other public grounds and public improvements for the location and planning of public buildings, schools and other properties, and public utilities, including bus terminals, railroad depots and terminals, whether publicly or privately owned, for water, light, sanitation, sewage disposal, drainage, flood control, transportation, communication and shipping facilities, and for the removing, relocating, widening, extension, narrowing, vacating, abandoning or changing of use of any of the foregoing public places, works, buildings, facilities or utilities;

(7) Plan and recommend to the city council routes, streets, avenues and boulevards, and particularly to investigate and recommend the opening, widening or abandonment of streets, avenues, boulevards and alleyways or the changing thereof to conform to the city's system, present and future, all streets, avenues, boulevards, alleyways and parks;

(8) Investigate, consider and report to the city council upon the layout and plan of any new subdivision as outlined in the subdivision regulations for the city;

(9) Recommend to the city council for adoption additional rules and regulations governing plats and subdivisions of land within the corporate limits of the city within the 100-foot boundary to promote the health, safety, morals and general welfare of the community, and the safe, orderly and healthful development of the community;

(10) Recommend plans to the city council in devising, establishing, locating, improving, selecting, maintaining, expanding and beautifying the public parks, playgrounds and lakes for public recreation;

(11) Aid and assist the city council by recommending plans for the development of civic centers, and make investigations and consider and make recommendations to the city council concerning traffic regulations, routing and control and highway designations;

(12) Review all zoning regulations and make recommendations of amendments thereto, and review and act on all exceptions permitted under zoning changes involving major land use.

(Code 1974, § 2-6; Code 1994, § 2-51; Code 2005, § 2-74)

Secs. 2-75--2-91. Reserved.

ARTICLE III. EMPLOYEE BENEFITS

DIVISION 1. GENERALLY

Sec. 2-92. Employee retirement.

Pursuant to the provisions of V.T.C.A., Government Code ch. 851 et seq., which shall herein be referred to as the "TMRS Act," the city adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System (herein referred to as the "system"):

(1) Any employee of the city who is a member of the system is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the system performed for one or more municipalities that have adopted a like provision under V.T.C.A., Government Code § 854.202(g) of the TMRS Act.

(2) Prior to adopting the ordinance from which this article is derived, the governing body of the city has:

a. Prepared an actuarial analysis of member retirement annuities at 20 years of service; and

b. Held a public hearing pursuant to the notice provisions of the Texas Open Meetings Act, V.T.C.A., Government Code ch. 551.

(3) The rights hereinabove authorized shall be in addition to the plan provisions heretofore adopted and in force at the effective date of the ordinance from which this article is derived pursuant to the TMRS Act.

(Code 1994, § 2-71; Code 2005, § 2-92; Ord. No. 98-25, § 1, 9-14-1998)

Sec. 2-93. Authorization of updated service credits.

(a) On the terms and conditions set out in V.T.C.A., Government Code §§ 853.401--853.404 (hereinafter referred to as the "system"), who has current service credit or prior service credit in the system in force and effect on January 1 of the calendar year preceding such allowance, by reason of service in the employment of the city and on such date had at least 36 months of credited service with the system, shall be and is hereby allowed "updated service credit" (as the term is defined in V.T.C.A., Government Code § 853.402(d) of the TRMS Act).

(b) On the terms and conditions set out in section 853.601 of the TRMS Act, any member of the system who is eligible for updated service credits on the basis of service with this city, who has unforfeited credit for prior service and/or current service with another participation municipality of municipalities by reason of previous service, and was a contributing member on January 1 of the calendar year preceding such allowance shall be credited with updated service credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in said section 853.601, both as to the initial grant thereunder and all future grants under this article.

(c) The updated service credit hereby allowed and provided for shall be 100 percent of the "base updated service credit" of the member (calculated as provided in V.T.C.A., Government Code § 853.402(c) of the TRMS Act).

(d) Each updated service credit allowed hereunder shall replace any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) The initial allowance of updated service credit hereunder shall be effective on January 1, 1999, subject to approval by the board of trustees of the system. An allowance shall be made hereunder on January 1, of each subsequent year until this article ceases to be in effect under V.T.C.A., Government Code § 853.404(e) of the TRMS Act, provided that, as to such subsequent year, the actuary for the system has made the determination set forth in V.T.C.A., Government Code § 853.404(d) of the TRMS Act.

(f) In accordance with the provisions of V.T.C.A., Government Code § 853.401(d) of the TRMS Act, the deposits required to be made to the system by employees of the several participating departments on account of current service shall be calculated from and after the effective date of the ordinance from which this section is derived on the full amount of such person's compensation as an employee of the city.

(g) Effective January 1, 1999, for each month of current service thereafter rendered by each of its employees who are members of the state municipal retirement system, the city will contribute to the current service annuity reserve of each such member at the time of his retirement, a sum that is 200 percent of such member's accumulated deposits for such month of employment; and said sum shall be contributed from the city's account in the municipality accumulation fund.

(h) All employees of the city, who are members of the state municipal retirement system, shall make deposits to the system at the rate of seven percent of their individual earnings.

(Code 1994, § 2-72; Code 2005, § 2-93; Ord. No. 98-26, 9-14-1998)

Sec. 2-94. Current and prior contribution at rate of total compensation.

Pursuant to section 855.407(g) of the TMRS Act, the city hereby elects to make future normal and prior service contributions to its account in the municipal accumulation fund of the system at such combined rate of the total compensation paid by the city to employees who are members of the system, as the system's actuary shall annually determine as the rate necessary to fund, within the amortization period determined as applicable to the city under the TMRS Act, the costs of all benefits which are or may become chargeable to or are to be paid out of the city's account in said accumulation fund, regardless of other provisions of the TMRS Act limiting the combined rate of city contributions.

(Code 2005, § 2-94; Ord. No. 2008-43, § 1, 12-15-2008)

Secs. 2-95--2-114. Reserved.

DIVISION 2. FEDERAL OLD AGE AND SURVIVORS BENEFITS*

***Editor's note**--Due to adoption of Vernon's Ann. Civ. St. art. 6228a-6, the administration of Federal social security coverage for employees of political subdivisions was transferred in 1975 from the department of public welfare to the employee retirement system of Texas.

Charter reference—Pensions and insurance, § 4.05(d).

State law reference—Social security benefits, transfer of administration from department of public welfare; agreements to remain in effect, Vernon's Ann. Civ. St. art. 6228a-6; coverage of social security for employees of political subdivisions, V.T.C.A., Government Code § 606.021 et seq.

Sec. 2-115. Agreements to be entered into.

The city council, acting for and on behalf of the city, shall enter into all necessary agreements with the municipal retirement system of the state for the purpose of carrying out the provisions of state law and PL 734, 81st Congress, ch. 809, 2d, H.R. 600 (42 USC 401 et seq.).

(Code 1974, § 14-1; Code 1994, § 2-81; Code 2005, § 2-115)

Sec. 2-116. Agent to execute agreements.

The mayor is appointed as agent of the city council and of the city to execute all necessary agreements and instruments for and on behalf of the city council and city.

(Code 1974, § 14-2; Code 1994, § 2-82; Code 2005, § 2-116)

Sec. 2-117. Assessments, etc.

The city secretary is directed to be the person responsible for making assessments, collections, payments and reports as required by the state.

(Code 1974, § 14-3; Code 1994, § 2-83; Code 2005, § 2-117)

Sec. 2-118. Fund.

A sufficient sum of money shall be allocated and set aside from available funds for the purpose of carrying out the provisions of the acts referred to in this division, such money so allocated and set aside to be known as the Social Security fund, which fund shall be set aside and maintained in the regular city depository.

(Code 1974, § 14-4; Code 1994, § 2-84; Code 2005, § 2-118)

Secs. 2-119--2-177. Reserved.

ARTICLE IV. RECORDS AND INFORMATION MANAGEMENT*

***Charter reference**—Custodian of all records, § 4.04(a)(2); public records management, § 11.01.

State law reference—Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.; management and preservation of public records, V.T.C.A., Local Government Code § 203.021 et seq.; preservation and management of local government records, V.T.C.A., Government Code § 441.151 et seq.; public information, V.T.C.A., Government Code § 552.001 et seq.

Sec. 2-178. Title, policy and purpose.

This article shall be known and be cited as the "Records and Information Management Ordinance for the City of Friendswood, Texas." It is hereby declared to be the policy of the city to develop a records and information management program that provides for efficient, economical and effective control 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.

(Code 1974, § 2-40; Code 1994, § 2-146; Code 2005, § 2-178)

Sec. 2-179. 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 record shall have the same meaning as a "local government record," as set forth in V.T.C.A., Government Code § 441.151(8).

Director and *librarian* means the executive and administrative officer of the state library and archives commission.

(Code 1974, § 2-41; Code 1994, § 2-147; Code 2005, § 2-179)

Sec. 2-180. City records declared public property.

All city records are hereby declared to be the property of the city. No city officer or employee shall have, by virtue of his office or employment, any personal or property right to any such records even though he may have developed or compiled them. No person shall destroy, remove or use any city record except as authorized by law, this article or the policies and procedures of the city; provided, however, that no policy or procedure regarding use, removal or destruction of city records shall be adopted which conflicts with this article or applicable state or federal law; and provided further, that nothing contained in this article shall be construed to authorize the disclosure of city records which are exempt from disclosure under state or federal law.

(Code 1974, § 2-42; Code 1994, § 2-148; Code 2005, § 2-180)

Sec. 2-181. Records and information management responsibility established.

There is hereby established a records and information management program. The city secretary shall administer the records and information management program and shall be

responsible for citywide files management. In addition, the city secretary shall have direction and control of the city's records disposition program.

(Code 1974, § 2-43; Code 1994, § 2-149; Code 2005, § 2-181)

Sec. 2-182. Duties of city secretary.

The city secretary shall:

(1) Assist in establishing and developing policies and procedures for a records management program for the city;

(2) Administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;

(3) In cooperation with the custodians of the records:

a. Prepare and file with the director and librarian the records control schedules and amended schedules required by V.T.C.A., Local Government Code § 203.041, and the list of obsolete records as provided by V.T.C.A., Local Government Code § 203.044; and

b. Prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by V.T.C.A., Local Government Code § 203.045, or requests to destroy the originals of permanent records that have been microfilmed as provided by V.T.C.A., Local Government Code § 204.008, and of electronic storage authorization requests as provided by V.T.C.A., Local Government Code § 205.007;

(4) In cooperation with custodians, identify and take adequate steps to protect essential city records;

(5) In cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction or other disposition of city records is carried out in accordance with the policies and procedures of the city's records management program, this article and rules adopted pursuant to this article;

(6) Disseminate to the city council and custodians information concerning state laws, administrative rules and the policies of the government relating to local government records; and

(7) In cooperation with custodians, establish procedures to ensure that the handling of city records by the records management officer or those under the officer's authority is carried out in compliance with the records management program and with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

(Code 1974, § 2-44; Code 1994, § 2-150; Code 2005, § 2-182)

Sec. 2-183. Responsibilities of department heads.

All city department heads are responsible for the implementation and operation of effective files operations, record transfers and dispositions, and other activities in accordance with the provisions of this article within their areas of responsibility. They shall designate records coordinators within their offices and provide the city secretary with the names of such designees and of all file stations and file custodians under their supervision. Persons designated as records coordinators shall report directly to the head of their department on matters relating to the records management program and should have appropriate access to all files in their department.

(Code 1974, § 2-45; Code 1994, § 2-151; Code 2005, § 2-183)

Sec. 2-184. Responsibilities of records coordinators.

Each records coordinator shall coordinate the records management program between the city secretary and personnel in the record coordinator's office to ensure that the provisions of this article are followed. This responsibility shall include overseeing the application of records schedules within the office or department.

(Code 1974, § 2-46; Code 1994, § 2-152; Code 2005, § 2-184)

Sec. 2-185. City offices to use record schedules.

All city offices and departments shall adopt records retention and disposition schedules and destroy, transfer or otherwise dispose of records only according to such schedules.

(Code 1974, § 2-47; Code 1994, § 2-153; Code 2005, § 2-185)

Sec. 2-186. Development of records retention and disposition schedules.

(a) Initial retention periods to be included in records schedules shall be established by the city secretary, city manager and department heads. These retention schedules shall be submitted to the city attorney for review, and the city attorney shall notify the city secretary within 15 days of the approval of or objection to any retention period. If no objection has been submitted within the 15 days, the records schedule shall be adopted and have full force as sufficient authorization for records destruction or other action. If objection is made, the city secretary shall amend the retention period to the satisfaction of the office or department concerned, the city manager and city attorney. Revision of retention periods shall be submitted for review to the city attorney and city manager in the same manner as the original retention periods.

(b) When a records retention and disposition schedule is adopted, it shall thenceforth constitute full authority to destroy, transfer or take other actions, and the city council hereby directs that such actions be taken by the city secretary or under his supervision. The city secretary shall notify the state librarian of the intended destruction, as may be required by law, but no further notice to the city council or other city office shall be required.

(Code 1974, § 2-48; Code 1994, § 2-154; Code 2005, § 2-186)

State law reference—Records control schedules, V.T.C.A., Local Government Code § 203.041 et seq.

Sec. 2-187. Destruction of original city records.

No original city record shall be destroyed if such destruction is contrary to any state or federal law. Prior to the destruction of any original city record, the city secretary shall obtain the advice and consent of the city attorney. Any original city record, the subject matter of which is in litigation, may not be destroyed until such litigation is final.

(Code 1974, § 2-49; Code 1994, § 2-155; Code 2005, § 2-187)

State law reference—Destruction of records, V.T.C.A., Local Government Code § 203.044 et seq.

Sec. 2-188. One-time destruction of obsolete records.

Prior to adoption of records schedules for an office, one-time destruction of accumulated obsolete records of that office may be made by or under the supervision of the city secretary. Prior to such destruction, the city secretary shall submit lists of records to be destroyed to the department head, city attorney and city manager, who shall give notice within 30 days of any records they believe should not be destroyed, and such records shall be retained for a period agreed upon. The city secretary shall also submit notice as required by law to the state librarian and director pursuant to V.T.C.A., Local Government Code § 203.044. Obsolete records shall include those no longer created by the office or department and no longer needed for administrative, legal, fiscal or other research purposes.

(Code 1974, § 2-50; Code 1994, § 2-156; Code 2005, § 2-188)

State law reference—Destruction of obsolete records, V.T.C.A., Local Government Code § 203.044.

Sec. 2-189. Records center.

A records center shall be maintained by the city, which shall utilize one or more locations to store inactive records to ensure the security of such records from deterioration, theft or damage during the period of storage and to permit fast, efficient retrieval of information from stored records.

(Code 1974, § 2-51; Code 1994, § 2-157; Code 2005, § 2-189)

Sec. 2-190. Preservation of permanent records.

The city secretary shall develop procedures to ensure the permanent preservation of historically valuable records of the city. If city-owned facilities are not available, the city secretary shall arrange for the transfer of such records to the state library for perpetual care and preservation in one of its nearby regional historical resource depositories or shall make other arrangements for their permanent preservation not contrary to law or regulation.

(Code 1974, § 2-52; Code 1994, § 2-158; Code 2005, § 2-190)

Sec. 2-191. Noncurrent records not to be maintained in office files.

Records no longer required in the conduct of current business by any office of the city shall be promptly transferred to the records center or archives or the state library or be destroyed at the time such action is designated on an approved records schedule. Such records shall not be maintained in current office files or equipment.

(Code 1974, § 2-53; Code 1994, § 2-159; Code 2005, § 2-191)

Secs. 2-192--2-220. Reserved.

ARTICLE V. FINANCE*

***State law reference—**V.T.C.A., Finance Code ch. 1 et seq.; finances, V.T.C.A., Local Government Code ch. 101 et seq.

Sec. 2-221. Additional fee for post due fines, fees, other debts.

In accordance with V.T.C.A., Code of Criminal Procedure art. 103.0031, there shall be imposed an additional fee of 30 percent on all debts and accounts receivable; i.e., fines, fees, restitution, other debts and costs that are more than 60 days past due and have been referred to a private firm for collection.

(Code 2005, § 2-221; Ord. No. 2008-03, § 2, 2-18-2008)

Chapters 3--5

RESERVED

Chapter 6

ALCOHOLIC BEVERAGES*

***State law reference—**Alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 1.01 et seq.; local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 109.31 et seq.; local fee authorized, V.T.C.A., Alcoholic Beverage Code § 11.38; local license fee authorized, V.T.C.A., Alcoholic Beverage Code § 61.36; local regulation of billboards and electric signs, V.T.C.A., Alcoholic Beverage Code § 108.55; local option elections, V.T.C.A., Alcoholic Beverage Code § 251.71 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. 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:

Generally. The words, terms and phrases used in this chapter, except where the context clearly indicates otherwise, are as defined in V.T.C.A., Alcoholic Beverage Code § 1.04.

Tax assessor and collector means the city secretary.

(Code 1974, § 11-36; Code 1994, § 6-1; Code 2005, § 6-1; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-2. Levy of permit or license fee.

(a) *Permit fees.* There is hereby levied a separate fee upon the holder of each and every state permit to sell, manufacture, store or deliver liquor, wine or beer from premises located within the city.

(1) The fee shall be one-half of the charge made by the state for each state permit or the maximum amount permitted by law, whichever is greater.

(2) The amount of applicable fees shall be double for a state permit with a two-year term.

(3) The following shall be exempt from the fee authorized by this section:

a. Agent's, airline beverage, passenger train beverage, industrial, carrier's, private carrier's, private club registration, local cartage, storage and temporary wine and beer retailer's permits;

b. A wine and beer retailer's permit issued for a dining, buffet or club car; and

c. A mixed beverage permit during the three-year period following the issuance of the permit.

(b) *License fees.* There is hereby levied a separate fee upon each holder of each and every state license, except a temporary or agent's beer license, issued for premises located within the city, to the fullest extent authorized by V.T.C.A., Alcoholic Beverage Code § 61.36.

(1) The fee shall be one-half of the charge made by the state for each state license or the maximum amount permitted by law, whichever is greater.

(2) The amount of applicable fees shall be double for a state license with a two-year term.

(Code 1974, § 11-37; Code 1994, § 6-2; Code 2005, § 6-2; Ord. No. 2010-01, § 2, 1-25-2010)

State law reference—Authority to levy alcoholic beverage fees, V.T.C.A., Alcoholic Beverage Code §§ 11.38, 61.36.

Sec. 6-3. Fee receipt; expiration.

For each fee paid under section 6-2, a separate receipt shall be issued by the city, and each such receipt and fee shall expire and terminate on the expiration date of the state permit or license.

(Code 1974, § 11-38; Code 1994, § 6-3; Code 2005, § 6-3; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-4. Commencement of operation.

Every person owning, operating, managing or controlling any premises on which a city fee is levied under section 6-2, shall not commence operations under any such state permit or license until the city fee has been paid and the current receipt issued by the city is displayed in the manner required for display of a state permit or license.

(Code 1974, § 11-39; Code 1994, § 6-4; Code 2005, § 6-4; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-5. Failure to pay fee.

If a person required by the provisions of this chapter to pay a fee imposed under section 6-2, shall fail to pay such fee or display a current receipt in the same manner for the display of the state permit, such person shall be deemed guilty of a misdemeanor.

(Code 1974, § 11-41; Code 1994, § 6-5; Code 2005, § 6-5; Ord. No. 2010-01, § 2, 1-25-2010)

Sec. 6-6. Location of alcoholic beverage sales restricted.

(a) It shall be unlawful to sell or offer for sale any alcoholic beverage from a place of business which is located within 300 feet of a church, public school or public hospital.

(b) For the purposes of this section, the measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public schools shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.

(Code 1974, § 11-40; Code 1994, § 6-6; Code 2005, § 6-6; Ord. No. 91-3, §§ 1--4, 2-4-1991; Ord. No. 91-33, §§ 1--4, 12-2-1991; Ord. No. 93-14, § 1, 9-27-1993; Ord. No. 2010-01, § 2, 1-25-2010; Ord. No. 2012-17, § 2, 9-10-2012)

State law reference—Sales near school, church or hospital, V.T.C.A., Alcoholic Beverage Code § 109.33.

Secs. 6-7--6-20. Reserved.

ARTICLE II. PROHIBITION OF NUDITY IN COMMERCIAL ESTABLISHMENTS SERVING OR PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES

Sec. 6-21. Purpose.

The purpose of this article is to prohibit certain acts of commercial exploitation of human sexuality in commercial establishments within the city limits, where alcoholic beverages are served, offered for sale for consumption on the premises, or permitted to be consumed on the premises, and to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace and good order of the community, to prohibit lewd and unlawful activity, such as prostitution and the proliferation of controlled substances, all of which may occur when such commercial exploitation is permitted in such places, and to promote the preservation of property values of neighborhoods and adjacent properties.

(Code 1994, § 6-7; Code 2005, § 6-21; Ord. No. 98-9, § 1, 4-20-1998)

Sec. 6-22. Prohibition.

(a) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed:

(1) To suffer or permit any female person, while on the premises of said commercial establishment, to expose that area of the human female breast at or below the top of the areola thereof;

(2) To suffer or permit any female person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate such portions of the human female breasts as described in subsection (b) of this section;

(3) To suffer or permit any person, while on the premises of said commercial establishment, to expose his genitals, pubic area, buttocks, anus or anal cleft or cleavage; or

(4) To suffer or permit any person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft, or cleavage.

(b) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose that area of the human female breast at or below the top of the areola thereof, or to use any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

(c) It shall be unlawful for any person, while on the premises of a commercial establishment located within the boundaries of the city, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose his genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage.

(Code 1994, § 6-8; Code 2005, § 6-22; Ord. No. 98-9, § 1, 4-20-1998)

Sec. 6-23. Injunctive relief.

The city attorney is and shall be hereby authorized to seek compliance with this article by seeking injunctive relief in a court of proper jurisdiction to compel the operator, owner, or other violator of this article as the same shall be established, to comply with the terms and provisions thereof. The ability of the city to seek injunctive relief hereunder shall not be subject to, nor shall it be a prerequisite thereof, that the city has sought compliance with this article by application of penalties and sanctions as otherwise set out in this article.

(Code 1994, § 6-10; Code 2005, § 6-24; Ord. No. 98-9, § 1, 4-20-1998)

Chapters 7--9

RESERVED

Chapter 10

ANIMALS*

***State law reference**—Authority to regulate care and control of animals, V.T.C.A., Health and Safety Code § 826.033; health and safety of animals, V.T.C.A., Health and Safety Code §§ 821.001--828.013; treatment and disposition of animals, V.T.C.A., Health and Safety Code § 821.001 et seq.; cruelty to animals, V.T.C.A., Penal Code § 42.09 et seq.

ARTICLE I. IN GENERAL

Sec. 10-1. Purpose of chapter.

The primary function and intent of this chapter is protection of the health, safety, and welfare of the citizens of the city by controlling the animal population and establishing uniform rules and regulations for the control and eradication of rabies.

(Code 1974, § 3-16; Code 1994, § 10-1; Code 2005, § 10-1; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-16), 1-7-2002)

Sec. 10-2. Conformance with chapter and other regulations required.

Animal population, animal control, prohibition, and exceptions for keeping wild or exotic animals, rabies vaccination, rabies eradication, licenses, permits, fees, revocation of permits or licenses, quarantining, impoundment, nuisances, animal establishments, shall be accomplished and regulated in accordance and conformance with this chapter, V.T.C.A., Health and Safety Code ch. 826, and the "Rabies Control and Eradication" rules of the state department of health, and as implemented by this chapter and related regulations adopted by city council.

(Code 1974, § 3-15; Code 1994, § 10-2; Code 2005, § 10-2; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-15), 1-7-2002)

Sec. 10-3. Definitions.

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

Abandoned animal means any animal that has not been provided with one or more of the necessities of life, including air, food, water, or protection from the sun and other elements of nature, or has been left in the custody of another person without their consent.

Animal means any mammal, domesticated or wild.

Animal at-large means:

(1) *Off-premises*. Any animal that is not restrained by means of a leash or chain of sufficient strength, and not more than six feet in length, designed to control the actions of such animal while off the owner's property.

(2) *On-premises*. Any animal not confined on the premises of its 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 of sufficient strength to prevent the animal from escaping from premises and so arranged that the animal will remain upon the premises and not come any closer than ten feet to a public walkway, sidewalk, street, or property line when the restraint is stretched to full length, or within sight or voice command of the owner.

Animal control officer means a person designated by the city to represent and act on behalf of the city in the impounding of animals, controlling of animals running at-large, issuing citations, serving summons, testifying in court, and as otherwise required to enforce the provisions of this chapter and all other regulations relating to animals as authorized by state law.

Animal shelter means any facility operated by the city, a humane society, municipal agency, or any other governmental entity, or their authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Auction means any place or facility where animals are regularly bought, sold, or traded, or where animals are sold to the highest bidder, except those facilities otherwise defined in this chapter. This definition does not apply to the individual sale of animals by their owners.

Circus means a commercial variety show featuring animal acts for public entertainment.

Confined or *confinement* means restricted within a building, house, or structure, or within a fenced yard or premises, so that the animal cannot escape from said building, house, structure, or fenced yard or premises without human assistance.

Dangerous animal means an animal that has:

(1) Made at least one unprovoked attack on a victim, which did not result in the victim's receiving a severe injury but did result in some physical injury, such as a laceration or puncture wound to the victim;

(2) On at least one occasion, although unprovoked, chased or approached a person or animal victim on a street, sidewalk, or any public or private property not owned or controlled by the harborer of the animal, in a menacing manner or with an apparent attitude of attack;

(3) A known propensity, tendency, or disposition to, although unprovoked to attack, cause injury or threaten the safety of persons or other animals; or

(4) Been declared a dangerous animal previously by the director.

Director means the supervisor of the city's animal control department or his authorized representative.

Domestic animal means any animal that is habituated to live in or about the habitations of persons.

Domesticated animal means any animal that is not wild or a wild animal that has been converted to domestic use.

Enclosure means a house or a building, or a fence or a structure/pen. In order to qualify as an "enclosure," the fence or structure/pen must have minimum dimensions of five feet by ten feet, must be of a height so as to prevent entry by young children or escape by any dog jumping over it, must be secured so that a dog cannot climb, dig, or otherwise escape on its own volition, must be securely locked at all times, must have secure sides to prevent a dog from escaping from the enclosure in any manner, and must provide protection from the elements for the animal contained therein.

Exotic animal means the same as "wild animal."

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

High-risk animals means and includes skunks, bats, foxes, raccoons, and other similar animals.

Hobby breeder means any person engaged in the recreational activity of raising or breeding animals and includes the occasional sale or trade of the offspring of such animals as a means to recover expenses and reduce the population of the housed animals. A person engaged in the hobby breeding birds shall house no more than 20 birds. The city council, following recommendation by the director, shall hereafter establish the necessary qualifications of a hobby breeder.

Kennel means any building, establishment, place, or premises wherein any person engages in the boarding, breeding, buying, selling, letting for hire, or training for a fee any canine or feline animal or animals, or wherein any person keeps, harbors, owns, or maintains more than a total of four dogs and cats over three months of age.

Licensing authority shall have the same meaning as the term "director."

Livestock means any breed of large domesticated animals, to include, but not be limited to, cattle, horses, sheep, goats, rabbits, llamas, alpaca and vicuna.

Low-risk animals means all animals of the orders Marsupialia, Insectivore, Rodentia, Lagomorphs, and Xenartha.

Miniature swine means any member of the swine family that has, through selective breeding, been genetically manipulated so as to attain a maximum height of 18 inches at the shoulder and a maximum weight of 60 pounds.

Multiple dwelling means any structure designed and intended to accommodate more than one family and includes, but is not limited to, duplex buildings and apartment buildings.

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days.

Person means any individual, partnership, firm, public or private corporation, association, trust, or estate.

Pet shop means any building, establishment, premises, or place used for or in the business of buying, selling, trading, or boarding any species of animal which shall include, but not be limited to, gerbils, hamsters, guinea pigs, mice, rabbits, birds, dogs, cats, fish, and reptiles. The term "pet shop" does not include a licensed kennel or individual sales of animals by owners. The term "pet shop" does not include hobby breeders, or persons engaged in the raising or breeding of large domesticated animals such as cattle, horses, goats, or sheep.

Quarantine means complete and total isolation in such a place, in such a manner, and for a period of time as the director may prescribe.

Regulatory authority means the director or his duly authorized representative.

Riding school or *riding stable* means any place that has available for hire, boarding, and/or riding any horse, pony, donkey, mule, or burro.

TDH means the Texas Department of Health.

Unprovoked attack means an attack by an animal on a victim who, at the time of the attack by the animal, was not committing a willful trespass or other tort upon the premises occupied by the owner or harborer of the animal; was not teasing, tormenting, abusing, or hitting the animal; had not in the past been observed or reported to have teased, tormented, abused, or hit the animal; was not committing or attempting to commit a crime or, if the victim was an animal, an attack on an animal which, at the time of the attack or bite by the animal, was not attacking or attempting to attack the animal or the animal's owner, harborer, or relative of the owner or harborer.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery and the diagnosis and treatment of diseases and injuries to animals.

Vicious animal means an animal that has:

(1) While off or on the property of its owner, and without provocation, killed, severely injured, or mauled a victim;

(2) On two occasions within a 24-month period, attacked or bitten, without provocation, a victim engaged in a lawful activity; or

(3) Been trained for animal fighting or is owned or kept for the purpose of animal fighting.

Victim means a person, dog, cat, horse, cow, or other domestic animal attacked by an animal.

Wild animal means and includes any mammal, amphibian, reptile, or fowl, which is of a species that is wild by nature and of a species, which, due to size, vicious nature, or other characteristic, is or may be dangerous to human beings. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, lynx, wolves, raccoons, ratites (ostriches, rheas, cassowaries, and emus), skunks (whether deodorized or not), monkeys whose average weight as an adult exceeds 20 pounds, foxes, elephants, rhinoceroses, alligators, crocodiles, and all forms of poisonous reptiles; any species of animal which is considered endangered by international, federal, or state regulations. The term "wild animal," as used in this chapter, shall not include ferrets, gerbils, hamsters, guinea pigs, mice, or rabbits.

Zoological park means a tract of land set aside in a natural or manmade state and which displays or exhibits more than one exotic animal under the control and supervision of a professional animal handler and cared for by a licensed veterinarian. The director may require proof of animal handling experience. The park shall be constructed in such a manner as to preclude the possibility of an animal escaping from such park and its cages or pens. Park construction, pens, cages, and equipment shall be designed and constructed in such a manner as to protect the animals and the public. The director may require proof of acceptable design and construction. All animals therein and their enclosures shall be approved by the director. Where required, all zoological parks shall be federally inspected and licensed. A park attendant shall be on duty at all times the park is open or accessible to the public.

(Code 1974, § 3-17; Code 1994, § 10-3; Code 2005, § 10-3; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-17), 1-7-2002)

Sec. 10-4. Enforcement.

The director or his designated representative shall enforce the provisions of this chapter. Under this chapter it shall be unlawful for any person to intentionally or knowingly:

(1) Refuse to surrender any animal subject to capture upon the demand of an animal control officer or peace officer;

(2) Interfere with an animal control officer or peace officer who is attempting to capture or who has captured any animal subject to capture and such interference allows the animal to escape; or

(3) Refuse to deliver an animal subject to capture to a licensed veterinarian for observation or treatment upon the demand of an animal control or peace officer.

(Code 1974, § 3-45; Code 1994, § 10-5; Code 2005, § 10-5; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-50), 1-7-2002)

Sec. 10-5. Director may promulgate rules.

The director shall have the power, subject to approval of the city council, to prescribe and promulgate such rules and regulations, not inconsistent with any law of the state or this chapter, as he may deem necessary to protect the health and safety of the citizens and to effectively perform the duties imposed herein.

(Code 1974, § 3-44; Code 1994, § 10-6; Code 2005, § 10-6; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-49), 1-7-2002)

Sec. 10-6. Duties of director.

Under authority of the city council, the director shall enforce any and all regulations of this chapter in any and all parts of the city as is necessary to control the animal population and protect the health and safety of the citizens of the city. In furtherance thereof, the director shall:

(1) *Collect fees*. Collect all fees set by resolution and printed in Appendix D to this Code, as necessary, to recover the costs incurred in enforcing the requirements of this chapter. The director may further collect all unpaid cost, fees, or charges incurred by the animal while in violation of this chapter.

(2) *Make inspections*. Make all inspections required herein.

(3) *Capture and impound*. Capture and impound, or cause to be captured or impounded, in the manner authorized by law, all animals within the city, which are in violation of this chapter. The director may trap, capture, shoot, tranquilize, or use any other means or methods he deems necessary and prudent to perform the duties imposed herein. Any person who has control or possession of any animal, and who is in violation of this chapter shall, upon demand, turn over such animal to the director.

(Code 1974, § 3-43; Code 1994, § 10-7; Code 2005, § 10-7; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-48), 1-7-2002)

Sec. 10-7. Appeals from decision of director.

Whenever in this chapter provision is made for a hearing before the director, any person aggrieved by the decision of the director following such hearing may appeal same to the city council by giving notice thereof, served upon the city secretary, within 72 hours following the date the decision was so rendered. The city council shall hold a hearing on the appeal within 30 days following the date of notice of such appeal. Any such notice shall be served in writing, shall state the interest of the person appealing, the reason for the appeal, and a general description of the factual grounds upon which the appellant contends the decision of the director was incorrect.

(Code 1974, § 3-46; Code 1994, § 10-8; Code 2005, § 10-8; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-51), 1-7-2002)

Sec. 10-8. Issuance of citations.

In addition to or in lieu of impounding an animal that is found to be in violation of any provision of this chapter, or in addition to or in lieu of suspension or revocation of a license or permit, the director, or any peace officer, may issue to the owner of such animal or the holder of such license or permit for such animal, a notice of violation and shall file a complaint relating thereto with the municipal court of the city. Upon conviction of a violation of this chapter, the owner shall be penalized as provided in section 1-14.

(Code 1974, § 3-47; Code 1994, § 10-10; Code 2005, § 10-9; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-51), 1-7-2002)

Sec. 10-9. Keeping of wild or exotic animals prohibited; exception.

The director shall develop, and submit to city council for approval, rules and regulations to restrict the keeping of wild and/or exotic animals within the city to only those persons who have the knowledge, expertise, ability, grounds, facilities, and equipment to care for such animals. Following such approval, it shall be unlawful for any person to own, keep or harbor a wild or exotic animal, except in accordance with this chapter and the rules and regulations regarding the keeping of exotic animals adopted pursuant hereto. It is also the purpose and intent of this section to prohibit the owning, keeping, or harboring of wild and/or exotic animals as pets within the city.

(1) *Possession prohibited*. It shall be unlawful for any person to buy, sell, own, or keep or allow, suffer, or cause to be bought, sold, owned, or kept, any wild or exotic animal upon or within any premises within the city, except as permitted by duly adopted regulations.

(2) *Exotic animal permit*. The director may issue an exotic animal permit only as authorized by the rules and regulations provided herein, or in such other regulations as the city council may, from time to time, adopt.

(3) *Temporary permit*. The director may issue a temporary permit for the keeping, care, and protection of an infant wild animal native to the area, which has been deemed to be homeless or injured. The application for a temporary permit shall be accompanied by a letter or statement of approval from the state department of parks and wildlife.

(4) *Exceptions*. This section shall not be construed to apply to veterinary hospitals, zoological parks, or performing animal exhibitions or circuses, which have applied for and received a permit from the director as provided herein or in such other regulations as city council may, from time to time, adopt.

(Code 1974, § 3-40; Code 1994, § 10-11; Code 2005, § 10-10; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-42), 1-7-2002)

State law reference—Dangerous wild animals, V.T.C.A., Health and Safety Code § 822.101 et seq.; subchapter of state law does not preempt municipal regulation or prohibition of dangerous wild animals, V.T.C.A., Health and Safety Code § 822.116(b).

Sec. 10-10. Releasing or abandoning of animals.

(a) *Violation to abandon*. It shall be a violation of this chapter for any person to abandon or release any animal upon any property, whether public or private, within the city. An animal shall be considered abandoned if the owner has not provided care, including food, air, water, or shelter, for three or more consecutive days, beginning on the day the animal was discovered not being provided care.

(b) *Person having knowledge of abandonment of animals*. Any person having knowledge of an animal that has been or is believed to have been abandoned or released shall so notify the director and shall provide all pertinent information, including a description and location of the animal and the name, address, car license number, or any other information or description of the person who released or abandoned the animal, if known.

(c) *Keeping, harboring, or feeding strays*. Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray animal or any animal that has been abandoned, to remain on the person's property for three or more days without notifying the city, shall hereby be deemed the owner of said animal.

(Code 1974, § 3-41; Code 1994, § 10-12; Code 2005, § 10-11; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-43), 1-7-2002)

Sec. 10-11. Public nuisances.

(a) *Failure to exercise proper care*. Every animal owner shall exercise proper care and control of such animal or animals, and the premises where they are kept, to prevent them from becoming a public nuisance.

(b) *Conditions constituting nuisances*. All of the following conditions, situations, or occurrences are hereby declared to be public nuisances and constitute failure of the owner to exercise proper care and control of his animal or animals and/or the premises where said animal or animals are or have been kept:

(1) Any animal which turns over garbage containers, scatters garbage, or otherwise damages private or public property;

(2) Any animal running at-large or roaming off of private property owned or controlled by the owner thereof;

(3) Any animal that barks, whines, howls, or makes other sounds or noises in an excessive, continuous, or untimely fashion; or

(4) Any building, room, cage, kennel, yard, run, or other place or facility where animals are kept or harbored that is not maintained in a clean and sanitary condition so as to prevent obnoxious odors; the attraction, breeding, or potential breeding of flies; the attraction, harboring, or breeding of rodents, or potential breeding of rodents; or the creation of any other public health nuisance.

(Code 1974, § 3-42; Code 1994, § 10-13; Code 2005, § 10-12; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-44), 1-7-2002)

Sec. 10-12. License and registration fees.

Any person required under section 10-74 to obtain a license for an animal, or any person required under section 10-122(f) to register a dangerous animal, shall obtain said license and/or registration from the director, or his authorized representative, and shall pay a license and/or registration fee as may be set by resolution and printed in Appendix D to this Code.(Code 1974, § 3-21; Code 1994, § 10-14; Code 2005, § 10-13; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-21), 1-7-2002)

Sec. 10-13. Area designated as bird sanctuary.

The entire area embraced within the city limits is designated and declared a bird sanctuary.

(Code 1974, § 3-1; Code 1994, § 10-15; Code 2005, § 10-14)

Sec. 10-14. Birds protected; exceptions.

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wildfowl or to rob birds' nests or wildfowl nests; provided, however, if starlings or similar birds are found congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, such health authorities shall meet with representatives of the bird club, garden club, Audubon Society or humane society, or as many of such clubs as are found to exist in the city, after having given at least three days' actual notice of the time and place of the meeting to the representatives of such clubs. If as a result of such meeting no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such numbers and in such a manner as is deemed advisable by the health authorities under the supervision of the chief of police.

(Code 1974, § 3-2; Code 1994, § 10-16; Code 2005, § 10-15)

State law reference—Treatment of live birds, V.T.C.A., Health and Safety Code § 821.003.

Sec. 10-15. Livestock prohibited at large.

It shall be unlawful for the owner or controller of any cow, horse, mule, jack, jenny, hog, sheep or goat to allow or permit such animal to be at large within the city.

(Code 1974, § 3-3; Code 1994, § 10-17; Code 2005, § 10-16)

State law reference—Estrays, V.T.C.A., Agriculture Code § 142.001 et seq.; running at large on highways, V.T.C.A., Agriculture Code § 143.101 et seq.

Sec. 10-16. Animals running at-large prohibited.

(a) It shall be unlawful for any animal owned, kept or harbored to run at-large.

(b) The director of animal control, the animal control officer, or any peace officer is authorized to impound any animals running at-large.

(c) Dogs traveling in the backs of pickup trucks, open cab vehicles, and trailers, which are not covered with a camper cover, side board, or other such device, shall be considered at-large. Dogs traveling inside vehicles shall be restrained in a manner that will not cause injury to such animal and will prevent it from reaching the outside of the vehicle or trailer.

(Code 1974, § 3-29; Code 1994, § 10-18; Code 2005, § 10-17; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-29), 1-7-2002)

Sec. 10-17. Number of dogs, cats and large animals limited.

(a) *Private premises*. It shall be unlawful for any person to keep, harbor, own, maintain, or allow to be harbored, owned, or maintained more than a total of four dogs andcats, over three months of age, upon or within any premises owned, occupied, or under the control of such person within the city, except where specifically exempt in subsection (d) of this section.

(b) *Multiple dwellings*. It shall be unlawful for any person to keep, harbor, own, maintain, or allow to be kept, harbored, owned, or maintained more than a total of two dogs and cats, over three months of age, upon any premises of or within any apartment of a multiple dwelling structure within the city.

(c) *Litters*. Only one litter from any animal permitted under subsections (a) and (b) of this section shall be allowed at any given time.

(d) *Exemptions*. The provisions of this section limiting the number of animals shall not apply to the following:

(1) Veterinary hospitals;

(2) Pet shops;

(3) Kennels;

(4) Circuses; or

(5) Animal shelters.

(e) *Total number allowed on property.* It shall be unlawful for any person to keep, harbor, own, maintain, or allow to be kept, harbored, owned, or maintained large domesticated animals, in greater than the following numbers: on tracts of land of less than two acres, provided that the total number of animals shall not exceed two per acre or 15 total, whichever is less; on tracts of land greater than five acres may not exceed two animals per acre. Further, all enclosures or other kennel facilities utilized pursuant to this subsection shall be located and constructed so as to protect adjacent property owners from the noise and air pollution.

(Code 1974, § 3-39; Code 1994, § 10-19; Code 2005, § 10-18; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-41), 1-7-2002)

Sec. 10-18. Defecation by animals.

It shall be unlawful for any person to fail to promptly remove and dispose of, in a sanitary manner, feces left by an animal being handled by that person on any property, public or private, other than the premises of the owner or handler of such animal. For the purposes hereof, the term "handler" shall mean the person having custody and control of such animal, whether by leash or by voice and sight. Further, it shall be unlawful for any person to walk an animal upon public property or upon the private property of someone other than the animal's owner or handler without having in their possession a container or other instrument suitable for removal and disposal of such animal's feces in a sanitary manner. However, this section shall not apply to handicapped persons using guide dogs or to peace officers using animals in the discharge of law enforcement activities.

(Code 1994, § 10-20; Code 2005, § 10-19; Ord. No. 92-11, § 1, 9-14-1992; Ord. No. 2001-25, § 1(3-45), 1-7-2002)

Sec. 10-19. Animals in parked vehicles.

(a) No dog or other animal shall be left in a closed parked vehicle in such a way as to subject the animal to extreme temperatures that could adversely affect the animal's health, safety or welfare.

(b) Any animal control officer, peace officer, or personnel of the fire department may use reasonable force to remove the animal from any vehicle if such person believes that an emergency situation exists due to the circumstances described in subsection (a) of this section.

(c) A person may not attempt to remove or use force to remove from a motor vehicle any animal in the custody of an animal control or peace officer.

(Code 1994, § 10-21; Code 2005, § 10-20; Ord. No. 2001-25, § 1(3-46), 1-7-2002)

Sec. 10-20. Equine infectious anemia (EIA).

Equine (horses, donkeys, mules, zebras, and burros) entering assemblies/events within the city shall have proof of a negative equine infectious anemia (EIA) test within the past 12-month period. An EIA test document, VS 10-11, is adequate proof of testing. The person or group in charge of any such event shall be responsible for ensuring that the equine are accompanied by such valid documentation and that the state equine event validation sheet (TAHC Form 96-38) has been completed.

(Code 1994, § 10-22; Code 2005, § 10-21; Ord. No. 2001-25, § 1(3-46[.1]), 1-7-2002)

Sec. 10-21. Miniature swine.

(a) The owner of miniature swine shall annually register the animal with the city. Written application for registration and the payment of applicable registration fees shall be made to the city's central cashier's office. The application shall include the name, address and primary e-mail address of the owner, a description of the animal, and a copy of a current rabies vaccination certificate. Upon acceptance of the application, a city license tag shall be issued, which shall bear an identifying number for the animal and the year of issuance.

(b) Miniature swine may be kept as pets within the city, subject to the following requirements:

(1) It shall be unlawful to keep, own, or possess more than one swine per household or business.

(2) It shall be unlawful for any person to keep or maintain miniature swine in an outdoor enclosure. A person may allow miniature swine outdoors for brief periods not to exceed one hour per occurrence, as necessary, for exercise or for the elimination of waste. The outdoor area used for exercise and waste elimination must be a secure area from which the swine may not escape. Miniature swine are subject to all the other sections of this chapter, including the prohibition of animals running at-large.

(3) It shall be unlawful for any person to keep or maintain miniature swine within the city, unless the swine have received annual vaccinations against erysipelas, parvo virus, and leptospirosis. The first inoculations for such diseases must be received before the animal is four months of age. Upon request, the owner of miniature swine must provide the animal control officer with a health certificate from a licensed veterinarian within 14 days of vaccination, which shall contain the following information:

a. Name, address, primary e-mail address, driver's license number, and telephone number of the owner;

b. Name, address, primary e-mail address and telephone number of the licensed veterinarian providing the vaccinations and certificate;

c. Name, a recent photograph, and the description of the animal, including age, weight, and height;

d. The types and dates of vaccinations;

e. A statement of the general health of the animal; and

f. Certification that the animal has been either sprayed or neutered.

(4) It shall be unlawful for any person who owns, keeps, harbors, or has custody of any miniature swine to fail to display on such animal, at all times, a valid city registration and vaccination tag.

(5) It shall be unlawful for any person who owns, keeps, harbors, or has custody of any miniature swine to display on such miniature swine a registration or vaccination tag issued to another animal.

(6) All locations where miniature swine are maintained shall be kept in a clean and sanitary condition.

(c) If the owner of a miniature swine fails or refuses to comply with any of the requirements of this section, the animal control officer may deny or revoke the animal's registration and order the miniature swine removed from the city. The determination of the animal control officer may be appealed by the owner of the miniature swine to the municipal court.

(Code 1994, § 10-23; Code 2005, § 10-22; Ord. No. 2001-25, § 1(3-47), 1-7-2002)

Secs. 10-22--10-49. Reserved.

ARTICLE II. DOGS AND CATS*

***State law reference**—Registration and restraint of dogs and cats, V.T.C.A., Health and Safety Code § 826.031 et seq.

DIVISION 1. GENERALLY

Sec. 10-50. Dogs in heat.

Bitches in heat shall be securely confined by the owner to the premises of the owner in such a manner as to not create or cause to be created a nuisance of any kind to any person.

(Code 1974, § 3-31; Code 1994, § 10-41; Code 2005, § 10-50; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-33), 1-7-2002)

Secs. 10-51--10-73. Reserved.

DIVISION 2. LICENSE

Sec. 10-74. Required.

Every person owning, harboring, or having in his possession any dog or cat is hereby required to obtain from the licensing authority an annual license for each such dog or cat, which must initially be obtained within seven days following the rabies vaccination required herein, and annually thereafter. It shall be unlawful for any person to own, harbor, or have in his possession within the city a dog or cat for which a current valid license has not been obtained as provided herein.

(Code 1974, § 3-20(a); Code 1994, § 10-56; Code 2005, § 10-74; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(a)), 1-7-2002; Ord. No. 2003-10, § 1, 7-21-2003)

Sec. 10-75. Exceptions.

The licensing provisions of this article shall not apply to dogs or cats that are:

(1) Under the age of four months, if kept confined.

(2) Owned by, or in custody or under the control of, persons who are not residents of the city, but are only traveling through or temporarily sojourning therein, for a period not to exceed 30 days.

(3) Brought into the city exclusively for the purpose of participating in any show or exhibition and actually entered in and kept at such show or exhibition.

(4) Duly and properly trained to aid or assist blind persons when such dogs are actually used for the purpose of aiding or assisting such persons in going from place to place.

(5) Duly and properly trained to aid or assist deaf persons when such dogs are actually used for the purpose of aiding or assisting such persons in going from place to place.

(6) Kept in qualified institutions, approved by the director, for teaching or research purposes.

(7) Kept in veterinary hospitals or animal shelters.

(Code 1974, § 3-20(h); Code 1994, § 10-57; Code 2005, § 10-75; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(h)), 1-7-2002)

Sec. 10-76. Proof of vaccination.

A license for any dog or cat shall not be issued unless the owner thereof presents to the licensing authority a certificate from a licensed veterinarian showing that such animal has been administered the approved rabies vaccine as provided herein.

(Code 1974, § 3-20(b); Code 1994, § 10-58; Code 2005, § 10-76; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(b)), 1-7-2002)

Sec. 10-77. Valid period.

Such license and registration required by section 10-74 and section 10-122(f) hereof shall be valid for a period not to exceed one year, beginning on the month and day the rabies vaccination certificate was issued.

(Code 1974, § 3-20(c); Code 1994, § 10-59; Code 2005, § 10-77; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(c)), 1-7-2002; Ord. No. 2003-10, § 2, 7-21-2003)

Sec. 10-78. Animals brought into city.

The owner of a dog or cat that is brought into the city from another area shall, within seven days of arrival, obtain a license for each dog or cat as required herein. Said license shall be valid for the period stated in section 10-77, but under no condition shall such license be valid for longer than one year from the date of the animal's last rabies vaccination.

(Code 1974, § 3-20(d); Code 1994, § 10-60; Code 2005, § 10-78; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(d)), 1-7-2002)

Sec. 10-79. Identification tags.

(a) *Tags required.* Upon acceptance of the license application or rabies vaccination certificate, and payment of a license fee, the licensing authority shall issue a durable tag, stamped with an identification number and the year of issuance. The tag and/or the receipt for payment of said license tag shall be presented to the licensing authority upon request. Failure to present such license tag or receipt for said tag shall constitute a violation of this article.

(b) *Tags attached*. The owner of every dog or cat shall attach the city's license identification tag to a collar or harness and said dog or cat shall wear the collar or harness at all times when off the premises of the owner. Tags may not be switched from one animal to another.

(c) *Lost tags*. The licensing authority shall maintain a record of the identification numbers of all tags issued and this record shall be available to the public. If a license tag has been lost, a duplicate tag may be obtained from the licensing authority for a fee as may be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 3-20(e)--(g); Code 1994, § 10-61; Code 2005, § 10-79; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-20(e)--(g)), 1-7-2002)

Secs. 10-80--10-101. Reserved.

DIVISION 3. RABIES IMMUNIZATION*

***State law reference—**Vaccination of dogs and cats required, V.T.C.A., Health and Safety Code § 826.021; vaccination requirement, 25 Tex. Admin. Code § 169.29.

Sec. 10-102. Vaccination required.

Each person owning, harboring, or having in his possession a dog or cat shall have such animal vaccinated against rabies, by the time such is animal is four months of age, by means of an anti-rabies vaccine approved by the TDH, and administered by a duly licensed veterinarian. Each person owning, harboring, or having in his possession a dog or cat that has been vaccinated against rabies by the age of four months shall have the animal given a rabies booster within the 12-month interval following the initial vaccination, by means of an antirabies booster approved by the TDH, and administered by a duly licensed veterinarian. Each person owning, harboring, or having in his possession a dog or cat shall have such animal revaccinated against rabies at a minimum of at least once every three years with a rabies vaccine licensed by the United States Department of Agriculture. The vaccine must be administered by a duly licensed veterinarian in accordance with label recommendations.

(Code 1974, § 3-18(a); Code 1994, § 10-71; Code 2005, § 10-102; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-18(a)), 1-7-2002; Ord. No. 2003-10, § 3, 7-21-2003)

Sec. 10-103. Certificate of vaccination.

Any veterinarian who vaccinates any animal within the city shall issue a certificate of vaccination to the owner thereof, stating the name and address of the owner, the description of the animal, the date of vaccination, the identification number of the rabies vaccination tag, and, in addition, any other information specified by the veterinary licensing agency to be presented to the director upon request.

(Code 1974, § 3-18(b); Code 1994, § 10-72; Code 2005, § 10-103; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-18(b)), 1-7-2002)

Sec. 10-104. Vaccine.

(a) *Vaccination*. To prevent improper vaccination of animals and the accidental exposure of humans to rabies, rabies vaccine for animals shall be administered only by, or under the direct supervision of, a veterinarian licensed to practice in the state, and in accordance with the recommendation of the manufacturer.

(b) *Sale of vaccine*. No person shall sell or distribute rabies vaccine for animals to any person, except a licensed veterinarian or a person working in a veterinary clinic who accepts the vaccine on behalf of the veterinarian.

(c) *Licensed pharmacy*. This article does not prohibit a pharmacy licensed by the state board of pharmacy from supplying rabies vaccine for animals to licensed veterinarians.

(Code 1974, § 3-19; Code 1994, § 10-73; Code 2005, § 10-104; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-19), 1-7-2002)

Secs. 10-105--10-121. Reserved.

ARTICLE III. DANGEROUS AND VICIOUS ANIMALS*

***State law reference—**Dangerous dogs, V.T.C.A., Health and Safety Code § 822.041 et seq.; subchapter of state law does not preempt municipal regulation or prohibition of dangerous wild animals, V.T.C.A., Health and Safety Code § 822.116(b); local regulation of dangerous dogs, non-breed specific, V.T.C.A., Health and Safety Code § 822.047.

Sec. 10-122. Dangerous animals.

(a) *Definitions*. For the purposes of this article, the definitions of "dangerous animal" and "wild animal" contained in section 10-3 shall be used.

(b) *Declaration of a dangerous animal*. The director may find and declare an animal to be a dangerous animal as defined herein.

(c) *Notification of declaration of a dangerous animal*. The director shall notify the owner of an animal of its designation as dangerous and the city's requirements for owners of dangerous animals as set out in subsection (g) of this section. The notice required herein shall be served as stated in section 10-169.

(d) *Hearing request*. If an animal is declared to be dangerous under this article, the notice shall inform the owner of the animal that a determination hearing may be requested to contest such declaration. The request for a hearing must be in writing and must be received by the director within ten days of the date of service of such declaration. If such request is not received within the ten-day period, the director's declaration shall become final.

(e) *Defense to declaration of dangerous animal*. It is a defense to the determination that an animal is dangerous, and to the prosecution of the owner of an animal declared to be dangerous, if:

(1) The victim injured, bitten, or in fear of injury was teasing, tormenting, abusing, or assaulting the animal or has, in the past, teased, tormented, abused, or assaulted the animal;

(2) The person injured, bitten, or fear of injury was committing or attempting to commit a crime;

(3) A domestic animal is injured or killed and was, at the time, teasing, tormenting, abusing, or assaulting the animal;

(4) Such animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault;

(5) The animal was injured and responding to pain; or

(6) The animal was protecting its offspring, itself, or its kennelmates.

(f) *Dangerous animal registration required*. The owner of an animal declared dangerous under this article shall, within ten days of the date of the final dangerous animal declaration, register the animal with the city.

(1) The owner shall notify the director, as soon as reasonably possible, upon discovery that a dangerous animal is loose, has been stolen, is unconfined in an approved enclosure, has attacked another animal or a person, or has died.

(2) If the owner of a dangerous animal relocates, sells, or gives away a dangerous animal, the owner shall provide the director with the name, address, and telephone number of the new owner or the location of the new enclosure, if located within the corporate limits of

the city. A new owner of a dangerous animal within the city must sign a sworn statement that he will comply with all of the city's requirements for owners of dangerous animals and shall comply with said requirements within 30 days of such acquisition.

(g) *Requirements of dangerous animal owners*.

(1) Upon final determination that an animal is dangerous, the owner thereof shall:

a. As soon as is reasonably possible, but not more than 24 hours after such determination, cause such dangerous animal to be placed and kept in a proper enclosure, except as otherwise specifically permitted herein;

b. Within 60 days of such determination, present to the city a certificate of public liability insurance in the amount of $100,000.00 to cover any damages which may be caused by the animal. The insurance shall be for a 12-month period, shall not be cancelled unless the animal is no longer kept by the owner, and shall provide not less than 30 days written notice to the city of any cancellation thereof;

c. Securely muzzle such dangerous animal when taken outside the enclosure, in a manner that will not cause injury to such animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal. The dangerous animal must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and shall not exceed six feet in length;

d. Within ten days, post a sign on the premises warning that there is a dangerous animal on the property. Such sign shall be visible and capable of being read from any public street or highway adjacent to the property where the dangerous animal is located, and from any adjacent private property;

e. Within 30 days, display, immediately below each sign described in subsection (g)(1)d of this section, a symbol warning of the presence of the dangerous animal. The director shall approve the size and design of such symbol;

f. Within 30 days, cause the dangerous animal to be spayed or neutered; and

g. Within 30 days, cause the animal to wear, at all times, a fluorescent orange collar or harness of such size and color intensity so as to be visible at a distance of not less than 50 feet, by a person of ordinary vision.

(2) If the owner of an animal declared to be dangerous fails to comply with the ownership requirements listed above within the stated periods, such animal shall be destroyed as provided in section 10-124. Any animal declared to be dangerous shall not be offered for adoption or sale and shall not be removed from its approved enclosure or the city without prior written notification thereof to the city.

(h) *Dangerous animal at-large*. Any dangerous animal found at-large, after the owner thereof has been issued notice that such animal is dangerous, may be destroyed by any animal control or peace officer, without the officer having to catch or impound such animal or notify its owner.

(i) *License revocation of dangerous animal*. The director may, after providing the opportunity for and holding the requested hearing, revoke the license for any animal whose owner has been notified that the animal has been conclusively presumed to be dangerous, if said animal:

(1) Is not confined or is found running at-large;

(2) Is not muzzled as required herein;

(3) Bites or attempts to bite any person or chases or otherwise attempts to catch a person;

(4) Attacks or attempts to attack any other animal in violation of any section or part of this article;

(5) Is owned by a person who has been convicted of violation of any federal, state, or local law, article, or rule pertaining to said animal;

(6) Is dangerous and its owner fails to maintain insurance coverage in the manner and in the amounts set forth in subsection (g)(1)b of this section;

(7) Is dangerous and its owner does not register such animal as required in subsection (f) of this section; or

(8) Is dangerous and its owner does not build, obtain, or provide an enclosure and confine said animal within said enclosure within 30 days of such notification.

(j) *Exemptions*. The provisions of this section shall not apply to any law enforcement agency when a dog is being used for law enforcement purposes.

(Code 1994, § 10-96; Code 2005, § 10-122; Ord. No. 2001-25, § 1(3-30), 1-7-2002)

Sec. 10-123. Vicious animal.

(a) The municipal court of the city shall order the director to seize a vicious animal and shall issue a warrant authorizing such seizure on the sworn complaint of any person, including the city prosecutor, the director, an animal control officer, or a peace officer that the animal has caused the death of, or serious bodily injury to, a victim by attacking, biting, or mauling the victim and on a showing of probable cause to believe that the animal caused the death of or serious bodily injury to the victim as stated in the complaint.

(b) The director shall seize the vicious animal or order its seizure and shall provide for the impoundment of the animal in a secure and humane environment until the court orders the disposition of the animal.

(c) The municipal court shall set a time for a hearing to determine if the vicious animal caused the death or serious bodily injury by attacking, biting, or mauling the victim. Such hearing must be held not later than the tenth day after the date on which the warrant is issued. The municipal court shall give written notice of the time and place of the hearing to the owner of the animal or person from whom the dog was seized and the person who made the complaint. Any interested party, including the city prosecutor, the director, an animal control officer, or a peace officer, may present evidence at the hearing.

(1) If the court finds that the animal has caused a death by attacking, biting, or mauling a victim, the municipal court shall order the vicious animal destroyed. If such a finding is not made, the court shall order the animal released to its owner, the person from whom the animal was seized, or any other person authorized to take possession of the animal.

(2) If the court finds that the animal caused serious bodily injury to a victim by attacking, biting, or mauling a victim, the municipal court may order the vicious animal destroyed. If such a finding is not made, the court shall order the animal released to its owner, the person from whom the animal was seized, or any other person authorized to take possession of the animal.

(3) The municipal court may not order the vicious animal destroyed if the court finds that:

a. The animal caused serious bodily injury to a victim and the animal was being used for and was acting in protection of a person or person's property;

b. The attack, biting, or mauling occurred in an enclosure in which the animal was being kept, the enclosure was reasonably certain to prevent the animal from leaving the enclosure on its own, it provided notice of the presence of an animal, and the injured victim was at least eight years old and was trespassing in the enclosure when the attack, biting, or mauling occurred;

c. The animal was not being used for protection of a person or person's property;

d. The attack, biting, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

e. The animal was defending a person from an assault or person's property from damage or theft by the injured victim; or

f. The injured victim was younger than eight years old, the attack, biting, or mauling occurred in an enclosure in which the animal was being kept, and the enclosure was reasonably certain to keep a person younger than eight years old from entering.

(d) The destruction of an animal under this article shall be performed only by licensed veterinarians, employees of a recognized animal shelter or humane society, or employees of a government agency responsible for animal control and trained in the humane destruction of animals.

(Code 1994, § 10-97; Code 2005, § 10-123; Ord. No. 2001-25, § 1(3-31), 1-7-2002)

Sec. 10-124. Authority to destroy.

Any animal may be destroyed by an animal control officer or peace officer, in the interest of public safety, when such animal is found attacking, biting, or mauling victims at-large.

(Code 1994, § 10-98; Code 2005, § 10-124; Ord. No. 2001-25, § 1(3-32), 1-7-2002)

Secs. 10-125--10-146. Reserved.

ARTICLE IV. RABIES CONTROL*

***State law reference—**Rabies control, V.T.C.A., Health and Safety Code § 826.001 et seq.; municipality may establish local rabies control program, V.T.C.A., Health and Safety Code § 826.015; designation of local rabies control authority, V.T.C.A., Health and Safety Code § 826.017; disposition of domestic animals exposed to rabies, 25 Tex. Admin. Code § 169.30; report of potential human exposure to rabies, 25 Tex. Admin. Code § 169.25; quarantine method and testing, 25 Tex. Admin. Code § 169.27.

Sec. 10-147. Definitions.

Unless otherwise defined in this article, the definitions as stated in the current or latest rabies control and eradication rules of the state department of health shall apply in the interpretation of this article.

(Code 1974, § 3-17; Code 1994, § 10-131; Code 2005, § 10-147)

Sec. 10-148. Report of animal attacks.

Any person having knowledge of an animal bite, scratch, or other attack on a person or another animal, and the person suspects such animal is rabid, shall immediately report the incident to the animal control officer. The report shall include the name, address, and primary e-mail address of any victim and the owner of the animal, if known, and any other data that may aid in locating the victim or the animal. The person shall make said report as soon as possible, but not later than 24 hours from the time of the incident.

(Code 1974, § 3-32; Code 1994, § 10-132; Code 2005, § 10-148; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-34), 1-7-2002)

Sec. 10-149. Disposal of animals with rabies, etc.

It is hereby made the duty of the chief of police, any peace officer, or an animal control officer to destroy any animal at-large when said animal is, or reasonably appears to be, infected with rabies, or any other infectious, contagious, or dangerous disease or when an animal is attacking, or when such animal appears to be sick, injured, or in such other condition as it may not be expected

to live; provided, however, any animal suspected of having rabies shall be killed in such a manner as not to damage the brain. The officer who destroys such animal shall, before disposing of same, report such incident to the director, who shall determine the manner of disposal of the carcass, and said officer shall further submit a written report to the director containing the facts thereof. The director shall attempt to notify the owner, if known or ascertainable from the animal's license tag, if any, of such destruction, prior to disposal, which notice shall also include the director's proposed plan of disposal.

(Code 1974, § 3-33; Code 1994, § 10-133; Code 2005, § 10-149; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-35), 1-7-2002)

Sec. 10-150. Quarantining of suspected animals with rabies.

(a) *Approved shelter*. Any animal that has rabies or the symptoms thereof, or that bites, scratches, or otherwise attacks any person within the city shall be quarantined by the owner of said animal. The owner shall quarantine the animal as soon as possible, but not later than 24 hours from the time of the incident. The quarantine period shall be ten days or longer in a public or other place of confinement designated or approved by the TDH or under such conditions and in such a manner as may be prescribed by the TDH. It shall be a violation of this article for the owner or any other person to remove any animal from the jurisdiction of the city, if such animal is required to be quarantined or euthanized, or is otherwise in violation of this article, without the written consent of the director.

(b) *Release of animal to director*. The owner or person in charge of any animal that has rabies, has been exposed to rabies, or has the symptoms thereof, or that has bitten, scratched, or otherwise attacked any person or other animal, or that is quarantined as a rabies suspect, shall, upon demand, turn over said animal to the director.

(c) *Unknown animal*. At the discretion of the director, an unknown animal, which has bitten a human, may be humanely destroyed in such a manner that the brain is not damaged. The brain shall be submitted to a TDH-certified laboratory for rabies diagnosis.

(d) *High-risk animals*. If the biting animal is a high-risk animal, it shall be humanely destroyed and the brain submitted for rabies testing.

(e) *Low-risk animals*. If the biting animal is a low-risk animal, a quarantine or rabies test will not be required, unless the director has cause to believe such animal is rabid.

(f) *Wild animals*. No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely destroyed in such a manner that the brain is not damaged. The brain shall be submitted to a TDH-certified laboratory for rabies diagnosis.

(g) *Exceptions*.

(1) Any animal inflicting a serious bodily injury to an individual shall be humanely killed and the brain tested for rabies. An animal control officer may grant an exception to this requirement, provided the following criteria are met:

a. The biting animal is a domestic dog or cat;

b. The owner has a current rabies vaccination certificate; and

c. The animal was not in violation of any law at the time of the bite.

(2) If an exception is granted, the dog or cat shall be quarantined in accordance with this article.

(h) *Head submitted; quarantine*. If the biting animal is not a dog or cat or is not included in subsection (c), (d), (e), or (f) of this section, such animal will be humanely destroyed and the brain

tested for rabies, or the director may require the animal to be quarantined for 30 days as an alternative to destroying and testing.

(i) *Home quarantine*. In lieu of animal quarantine at an animal shelter or other quarters, the animal control officer may authorize the animal to be retained on the owner's premises, if the following requirements are satisfied:

(1) The animal was currently vaccinated at the time of the bite;

(2) The animal was not running at-large at the time of the bite;

(3) The animal was registered with the city at the time of the bite;

(4) When quarantined at home, the animal must be restrained and removed to an area where it will not come in contact with any person or other animal;

(5) The animal must be made available to the animal control officer for periodic inspections;

(6) The owner will observe the animal for any signs of illness or personality changes and report such changes to the animal control officer;

(7) The animal may not be moved from the known quarantine location without prior notification and approval by the animal control officer;

(8) The animal will remain under quarantine until the owner is notified by telephone, personal service, or certified mail that the final health inspection has been made and that the animal control officer has cleared the animal;

(9) The animal may not receive a vaccination for rabies during the quarantine period, except as provided herein; and

(10) Failure to comply with all conditions of home quarantine as stated above or as directed by the animal control officer will result in the animal being impounded at the animal shelter for the duration of the quarantine period.

(j) *Submittal to laboratory*. Any animal ordered to be quarantined that cannot be maintained or placed in secure quarantine shall be humanely destroyed and the brain submitted to a TDH-certified laboratory for rabies diagnosis.

(k) *Fees and cost*. Transportation, capture, laboratory, veterinarian, impoundment, quarantine, euthanasia, disposal, and any and all other fees, costs, charges, and duties shall be the direct responsibility of the animal owner or custodian. Failure of the owner to pay such costs and fees shall constitute a violation of this article and the penalties provided herein shall be assessed against said owner.

(l) *Release or removal from quarantine prohibited*. No animal shall be released or moved from the place of approved confinement, except by the director, until after the ten-day quarantine period and then only after inspection of the animal has been made and its release approved by the director.

(m) *Vaccination of quarantined animals*. No animal confined or quarantined as a rabies suspect as required herein shall be given a rabies vaccination until after the ten-day quarantine period. All unvaccinated animals shall then be vaccinated.

(n) *Rabies suspected*. If a quarantined animal is found to be rabid or, if in the opinion of the director or a veterinarian, is suspected of being rabid, the director shall humanely destroy the animal or cause the animal to be humanely destroyed and the brain submitted to a TDH-certified laboratory for rabies diagnosis.

(o) *Interfering with enforcement*. It shall be unlawful for any person to interfere with the enforcement of this section or fail or refuse to surrender, to the director or an animal control officer

any animal, involved or suspected of being involved in a bite case, or otherwise fail or refuse to provide for the quarantine of animals as may be authorized by this article.

(p) *Warrant to seize the animal.* If an owner fails or refuses to surrender an animal to the director or animal control officers for quarantine under this article, the director or such animal control officer may apply to any judge of the municipal court of the city for a warrant to seize the animal. The officer executing the warrant shall cause the animal to be impounded at an animal shelter.

(Code 1974, § 3-34; Code 1994, § 10-134; Code 2005, § 10-150; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-36), 1-7-2002)

Secs. 10-151--10-168. Reserved.

ARTICLE V. IMPOUNDMENT*

***State law reference**—Quarantine and impoundment, V.T.C.A., Health and Safety Code § 826.041 et seq.; disposition of domestic animals exposed to rabies, 25 Tex. Admin. Code § 169.30.

Sec. 10-169. Notice.

As soon as possible after an animal has been delivered to or picked up by an animal control officer and taken to impoundment, a record of said pickup shall be made by such officer. Such record shall include a description of the animal, the identification number of any rabies or license tag on such animal, and the name of the person to whom the animal is registered. If the animal bears a license tag, the director shall notify the person to whom such license tag was issued. The owner of said animal may be notified in person, by telephone, or by written notice left at or mailed to his last known address. The owner shall be deemed notified upon the mailing or leaving of said written notice, whether the owner receives the notice or not.

(Code 1974, § 3-35; Code 1994, § 10-156; Code 2005, § 10-169; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-37), 1-7-2002)

Sec. 10-170. Release of quarantined and impounded animals.

If a quarantined or impounded animal is found to be free from rabies or other infectious or contagious diseases, the director shall release it to the owner following the quarantine or impoundment period as specified in this article if:

(1) The owner pays the impoundment fees for each animal so retrieved, in addition to any tax or fine. No wild or exotic animals shall be released, except to persons who qualify and comply with the requirements of this article;

(2) The owner redeems his animal within five days, if such animal is licensed and wearing a license tag, or within 72 hours if such animal is not licensed or is not wearing a license tag, following notice of capture and/or impoundment;

(3) The owner of the animal has a current rabies vaccination certificate and license for the animal;

(4) The animal is vaccinated against rabies by a licensed veterinarian at the owner's expense and a license for the animal is issued;

(5) The owner presents proper identification and proof of ownership; and

(6) All fees, costs, or charges incurred have been paid by the owner of the animal.

(Code 1974, § 3-36; Code 1994, § 10-157; Code 2005, § 10-170; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-38), 1-7-2002)

Sec. 10-171. Disposal of quarantined and impounded animals.

(a) *Owner fails to claim*. The director may sell, for nonexperimental or research purposes, and retain the proceeds, keep, grant, or humanely destroy, under the circumstances, any animal whose owner or custodian does not take possession thereof, as provided in section 10-172, on or before the third day following the final day of quarantine or on or before the third day following notice of impoundment.

(b) *Sick or injured animals*. It is expressly provided that, in the case of diseased, sick, injured, or otherwise unhealthy animals impounded under these regulations, other than those affected or thought to be affected by rabies, it shall be unnecessary to await the expiration of the impoundment or retrieval period before disposing of such animals if, under the circumstances, the director determines that it would be inhumane to fail to dispose of any such animal.

(Code 1974, § 3-37; Code 1994, § 10-158; Code 2005, § 10-171; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-39), 1-7-2002)

Sec. 10-172. Disposal of carcasses.

(a) *Disposal method*. All animals shall be disposed of in such place and in such manner as may be designated or prescribed by the TDH and the director.

(b) *Person responsible*. The owner or person having control or charge of any animal before or at the time of the animal's death shall be totally responsible for the disposal of the animal carcass and shall contact the city for direction in such disposal.

(c) *Fee, cost, or charges*. All fees, costs, or charges incurred in the disposal of the animal carcass shall be the responsibility of the animal owner or person having charge or control of said animal at the time of or prior to the animal's death.

(d) *Disposal within 48 hours*. The carcasses of all animals shall be properly disposed of in accordance with the provisions of this article as soon as possible, but under no circumstances later than 48 hours after death.

(e) *Owner not identified*. If the owner of the dead animal cannot be identified, the property owner or the person having charge or control of the property where the carcass is located shall be responsible for the carcass disposal and is subject to all provisions contained herein. If the owner of the animal is located or identified after carcass disposal has been effected, said owner shall reimburse the property owner or person disposing of the carcass and shall be subject to all costs, conditions, and penalties contained in this article.

(Code 1974, § 3-38; Code 1994, § 10-159; Code 2005, § 10-172; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-40), 1-7-2002)

Secs. 10-173--10-197. Reserved.

ARTICLE VI. ANIMAL ESTABLISHMENTS

Sec. 10-198. Permits required.

(a) *Valid permit required*. Any person conducting, managing, owning, or maintaining an animal establishment, a kennel, pet shop, riding stable, auction, zoological park, circus, performing exhibition, or grooming shop, within the city, must display a valid permit for said establishment.

(b) *Permit fees*. Any person conducting, managing, owning, or maintaining an animal establishment within the city shall obtain a permit to do so from the director and pay a permit fee as may be set by resolution and printed in Appendix D to this Code.

(c) *Each facility separate*. Each and every facility regulated by this article and listed in subsection (a) of this section shall be considered a separate enterprise and shall require an individual permit.

(d) *Construction plans*. All plans for construction of animal establishments shall be submitted to and approved by the city before any building permit is issued or any construction is begun. Submission of plans and compliance with the provisions of this article shall be the responsibility of the owner.

(e) *Separation from residence*. No animal establishment shall be operated within the confines of a residential structure, unless that portion used for the animal establishment can be operated separately, with ingress and egress thereto completely independent from any portion of the structure used for residential purposes.

(f) *Exceptions*. No fee shall be required of any veterinary hospital, animal shelter, or government-operated zoological park or institution approved by the director for teaching or research purposes.

(g) *Application for permit*. Any person desiring to construct or operate an animal establishment listed in subsection (a) of this section shall make written application for a permit on forms provided by the city.

(h) *Plans inspected*. Prior to approval of an application for a permit, the director shall inspect the plans and specifications of the proposed establishment to determine compliance with this article and the city's "Construction Standards for Animal Establishments," as well as the city's subdivision and zoning regulations.

(i) *Equipment requirements*. All animal establishments must comply with any equipment and facility requirements as may be adopted from time to time by the city.

(j) *Validation period*. The director shall issue a permit to the applicant, if the director's final inspection reveals that the said animal establishment complies with the requirements of subsection (h) of this section. Each permit issued under the provisions of this article shall be valid for a period beginning January 1 and, regardless of the date issued, will expire December 31.

(k) *Inspections*. It shall be a condition for issuance of any permit or license that the director shall be allowed to inspect all animals, and the premises where the animals are kept, at any reasonable time and shall, if permission for such inspection is refused, suspend and/or revoke the permit or license of the refusing owner. It shall be unlawful for any owner to deny access to the director, or his duly authorized representative, for the purpose of conducting inspections.

(l) *Animal cruelty*. A person who is or has been convicted of cruelty to an animal shall not be issued or allowed to hold a permit to operate an animal establishment as listed in subsection (a) of this section.

(Code 1974, § 3-22; Code 1994, § 10-181; Code 2005, § 10-198; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-22), 1-7-2002)

State law reference—Seizure of cruelly treated animals, V.T.C.A., Health and Safety Code § 821.022.

Sec. 10-199. Collection of fees.

(a) *Fees prerequisite*. All permit and license fees shall be paid to and collected by the city before any permit or license will be issued. Certified checks, cashier's checks, personal checks, or money orders for such fees shall be mailed or delivered in person to the City of Friendswood, 910 South Friendswood Drive, Friendswood, Texas 77546-3898, and shall be made payable to the city.

(b) *Accounting*. The director shall keep a current and accurate accounting of all permit and license fees and other monies collected, the name of all persons upon whose account the same was paid, the date, the amount thereof, and the purpose for which the fee was paid.

(Code 1974, § 3-23; Code 1994, § 10-182; Code 2005, § 10-199; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-23), 1-7-2002)

Sec. 10-200. Suspension of permit.

(a) *Failure to comply*. The director may suspend any animal establishment permit listed in section 10-198(a), at any time, for failure of the permit holder to keep his establishment and/or premises in a sanitary condition. A permit may also be suspended for willful or repeated violation of any of the requirements of this article or of any federal, state or local law or any other article or rule governing the protection and keeping of animals.

(b) *Hearing request*. Whenever a permit is suspended, the holder of such permit or the person in charge shall be notified in writing that the permit is, upon service of such notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for such hearing is filed by the permit holder with the director within ten days. If no such request is filed within said ten-day period, the suspension shall be sustained. The director may end the suspension at any time if the reason for such suspension no longer exists.

(Code 1974, § 3-24; Code 1994, § 10-183; Code 2005, § 10-200; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-24), 1-7-2002)

Sec. 10-201. Revocation of permit or license.

(a) *Failure to comply*. The director may, after providing opportunity for a hearing, revoke a permit or license for serious, willful, or repeated violation of any of the requirements of this article or any federal, state, or local law or any other ordinance, or for interference with the director in the performance of his duties. Two or more convictions within a 12-month period shall constitute repeated violations. The director may suspend, revoke, or withhold a permit or license if the applicant withholds, falsifies, or misrepresents any information provided on the application form.

(b) *Hearing request*. Prior to such revocation, the director shall notify the holder of the permit or license, or the person in charge, in writing, of the reason the permit or license is subject to revocation, and that the permit or license shall be revoked upon expiration of ten days following the date of service of such notice, unless a written request for a hearing is filed by the holder of the permit or license with the director within such ten-day period. If no request for such hearing is filed within said ten-day period, the revocation of the permit or license shall become final. No portion of a permit or license fee shall be refunded upon revocation thereof pursuant to this section.

(c) *Service of notice*. A notice provided for in this article is properly served when it is delivered in person to the holder of the permit or license or the person in charge, or when it is sent by certified mail, return receipt requested, to the last known address of the holder of the permit or license, regardless of whether the letter is or is not received by the holder of the permit or license.

(Code 1974, § 3-25; Code 1994, § 10-184; Code 2005, § 10-201; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-25), 1-7-2002)

Sec. 10-202. Hearings.

The director shall conduct public hearings as provided in this article at a time and place designated by him. Based upon the evidence provided at such hearing, the director shall make a final determination and shall sustain, modify, or rescind any notice or order considered in such hearing.

(Code 1974, § 3-26; Code 1994, § 10-185; Code 2005, § 10-202; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-26), 1-7-2002)

Sec. 10-203. Disposition of animals after revocation.

Any person whose permit or license is revoked shall, within ten days after revocation:

(1) Humanely dispose of all animals owned, kept, or harbored by such person;

(2) Relocate all animals to areas or places outside the corporate boundaries of the city; or

(3) Release all animals to the director and pay all costs incurred in the handling of said animals thereafter, such as transporting, housing, feeding and/or disposal.

(Code 1974, § 3-27; Code 1994, § 10-186; Code 2005, § 10-203; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-27), 1-7-2002)

Sec. 10-204. Application after revocation.

Whenever a revocation has become final, the person whose permit or license has been revoked may not apply for or receive a new permit or license for a period of one year from the date of such revocation. One year after the date of any such revocation, the person may reapply for a permit or license and shall include with the application, verification that all reasons and conditions that led to such revocation have been corrected. Any person reapplying for a permit or license under this section shall be subject to all the requirements of this article. Any person having a permit or license revoked for a second time shall not be eligible for a new permit or license.

(Code 1974, § 3-28; Code 1994, § 10-187; Code 2005, § 10-204; Ord. No. 88-21, § 1, 3-20-1989; Ord. No. 2001-25, § 1(3-28), 1-7-2002)

Secs. 10-205--10-220. Reserved.

ARTICLE VII. ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 10-221. Creation of committee and purpose.

There is hereby created an animal shelter advisory committee to assist the city in complying with V.T.C.A., Health and Safety Code ch. 823, as such may be amended thereafter.

(Code 2005, § 10-205; Ord. No. 2010-09, § 1, 4-5-2010)

Sec. 10-222. Composition of committee.

The animal shelter advisory committee shall be composed of at least one licensed veterinarian, one municipal official, one person whose duties include the daily operation of an animal shelter, and one representative from an animal welfare organization. Members of the committee shall be appointed by and serve at the pleasure of the city council.

(Code 2005, § 10-206; Ord. No. 2010-09, § 1, 4-5-2010)

Sec. 10-223. Committee requirements.

The animal shelter advisory committee shall meet at least three times annually and by March 1 of each year produce an annual report to the city council for review.

(Code 2005, § 10-207; Ord. No. 2010-09, § 1, 4-5-2010)

Sec. 10-224. Rule of procedure.

The animal shelter advisory committee shall adopt its own rules of procedure.

(Code 2005, § 10-208; Ord. No. 2010-09, § 1, 4-5-2010)

Chapters 11--13

RESERVED

Chapter 14

BUILDINGS AND BUILDING REGULATIONS*

***Charter reference**—Adoption of technical codes by reference, § 3.13.

State law reference—Municipal regulation of housing and other structures, V.T.C.A., Local Government Code § 214.001 et seq.

ARTICLE I. IN GENERAL

Sec. 14-1. Violation of chapter.

Any person or agent who shall violate or cause to be violated any provision of this chapter, or who shall fail to comply with any of the requirements of this chapter, or who shall erect, construct, alter, demolish or move any structure or who shall have erected, constructed, altered, repaired, moved or demolished a building or structure in violation of a detailed statement or drawing submitted and approved under this chapter shall, upon conviction, be guilty of a misdemeanor.

(Code 1974, § 4-2; Code 1994, § 14-1; Code 2005, § 14-1)

Sec. 14-2. Registration and licensing of providers and repair services.

(a) *License required.* No person, firm, partnership, corporation or other entity shall engage in, undertake or carry on any business in whole or in part within the corporate limits, consisting of or related to the demolition, repair or renovation of, or the making of improvements to, real property, including dwellings, homes, buildings, structures, or any fixtures attached thereto, without having registered with and received from the city a building contractors license.

(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:

Building contractor means any person, firm, partnership, corporation or other entity engaged in, undertaking, or carrying on any business consisting of or related to the demolition, repair, or renovation of any building or structure, including any fixtures attached thereto. The term "building contractor" shall be understood to include any general, electrical, mechanical or plumbing contractor.

Doing business. Any building contractor shall be deemed to be "doing business" or engaged in business and thus subject to the requirements of this section if he has an office, agency, project site or place of business located within the corporate limits, or when he operates or maintains a business, either temporary, periodically, or otherwise, in the city, expressly including, but not limited to, the demolition, repair, or renovation of any building or structure, including any fixtures attached thereto.

(c) *Registration; filing of application.* It shall be unlawful for any building contractors to do business in the city without having first registered with the city and received a building contractor's license. Registrants/applicants shall register and file applications with the city manager or his/her designee at city hall. Such registration/application form shall include the name of the building contractor, the principal office address (not a P.O. box) and primary e-mail address, the name, address, primary e-mail address and phone number of an individual who will be available to respond to questions or complaints, proof of comprehensive general liability insurance with minimum limits set by resolution and printed in Appendix D to this Code, and such other information as the city manager deems necessary and appropriate for the proper identification and location of such applicant/registrant. Required policies of insurance shall be issued by a carrier duly authorized to write such coverage in the state, and must also contain a completed operations endorsement. An applicant shall, under oath, provide the city manager with a statement describing the general nature of the business to be conducted and give true and correct

information as may be called for on the registration form, application or certificate provided by the city. Contractors who are already registered with the city shall, in addition to payment of the annual fee required under Appendix D to this Code, be required to maintain proof of insurance as described herein.

(d) *Fees.* Building contractor license fees are set by resolution and printed in Appendix D to this Code and represent the administrative cost to the city for processing such applications and issuing necessary license certificates. License fees shall be paid in full at the time of issuance of the license.

(e) *Transfer of license.* Each license issued pursuant hereto shall be personal to the applicant/registrant, and may not be transferred to any other building contractor.

(f) *Display of license.* A true and correct copy of each license issued hereunder shall be carried by every person operating pursuant to such licensee within the city, and shall be exhibited to any authorized enforcement officer when so requested.

(g) *License revocation or suspension.* Each license granted under this section is a permit to engage in the business for which such license is granted while and only during such period said business is conducted in a lawful manner. The city hereby reserves the right to revoke or suspend any license which has been granted hereunder, if the licensee, or the licensee's agent or employee acting within the scope of his employment, violates this section or any other city, state, or federal law. If after issuance of a license, the city manager receives evidence that such business is not being conducted in a lawful manner, he shall, prior to revocation of such license, give written notice thereof to the licensee, which notice shall specify the violation with which the licensee is charged and a date, time and place at which a hearing before the city manager shall be held with regard to the violation. The licensee shall have an opportunity to be heard at such hearing, shall have the right to be represented by counsel, and shall have the right to introduce and submit evidence in opposition to such revocation.

(Code 1994, § 14-1; Code 2005, § 14-2; Ord. No. E2001-16, §§ 1--8, 6-18-2001; Ord. No. 2005-30, §§ 1--8, 9-26-2005; Ord. No. 2008-31, §§ 1--8, 9-11-2008; Ord. No. 2011-38, § 1, 1-9-2012; Ord. No. 2012-05, §§ 1, 2, 3-5-2012; Ord. No. 2013-43, § 2, 12-2-2013)

Secs. 14-3--14-22. Reserved.

ARTICLE II. BUILDING CODE

Sec. 14-23. International Building Code adopted.

The International Building Code, 2012 Edition, as published by the International Code Council, Inc., is hereby adopted by reference and made a part of this article. A copy of such code is on file with the city secretary.

(Code 1994, § 14-26; Code 2005, § 14-23; Ord. No. 2002-19, § 1, 11-18-2002; Ord. No. 2005-03, § 1, 1-17-2005; Ord. No. 2010-08, § 2, 4-19-2010; Ord. No. 2016-21, § 2(14-23), 5-2-2016)

State law reference—International Building Code as the commercial building code in this state, V.T.C.A., Local Government Code § 214.216.

Sec. 14-24. Amendments to International Building Code.

The 2012 Edition of the International Building Code, as adopted in section 14-23, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

> 101.1. Title. These regulations shall be known as the Building Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 109.2. Section 109.2 is hereby amended to add the following sentence:

The fee schedule shall be set by resolution and printed in Appendix D to the Code of Ordinances.

Section 108.1. Section 108.1 is hereby added to read as follows:

108.1. Plan checking fees. When a plan is required to be submitted by section 106, a plan-checking fee shall be paid to the building official at the time of permit issuance; provided, however, that if a permit is not issued for the project within 90 days of completion of the plan review, the plan review fees will become due and payable at that time. Said plan-checking fee shall be equal to one-half of the building permit fee.

Section 110.1. Section 110.1 is hereby amended by adding a new last sentence to read as follows:

110.1. For the purpose of this section, the moving of furniture or other personal property items into a property prior to issuance of a certificate of occupancy shall constitute the occupancy or use of the property.

Section 112.1. The following section 112.1 is hereby adopted to read as follows:

112.1. The construction board of adjustment and appeals shall consist of seven members. Such board members shall be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors, building industry representatives and licensed electrical contractors. In addition to the regular members, there shall be two alternate members, one member at large from the building industry and one member at large from the public. A board member shall not act in a case in which he has a personal or financial interest.

Section 401.2. The following section 401.2 is hereby added to read as follows:

401.2. All foundations are to be designed by a registered professional engineer. All plans must be submitted with original wet seal stamps applied. Foundation construction shall be capable of accommodating all loads according to section R301 and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations shall be designed, installed and tested in accordance with accepted engineering practice. Gravel fill used as footings for wood and precast concrete foundations shall comply with section R403.

Section 1507.8. Section 1507.8 is hereby amended to add a paragraph to read as follows:

Notwithstanding any other provision of this code to the contrary, no wood shingles or shakes shall be used in the construction of any structure except single-family residential structures, and then only when treated by an approved fire retardant. All plans shall indicate the roofing materials to be used.

Section 2904. Section 2904 is hereby amended to read as follows:

P2904. Dwelling unit fire sprinkler systems. The requirements of section P2904 are hereby deleted, except that any voluntary installation of a dwelling unit fire sprinkler system shall comply with NFPA 13 D.

(Code 1994, § 14-27; Code 2005, § 14-24; Ord. No. 2002-19, § 2, 11-18-2002; Ord. No. 2005-03, § 2, 1-17-2005; Ord. No. 2010-08, § 2, 4-19-2010; Ord. No. 2016-21, § 2(14-24), 5-2-2016)

Sec. 14-25. Trash on construction sites.

Trash and/or discarded construction materials for all construction sites shall be contained in an enclosure designed to prevent redistribution of the contents thereof (construction debris) by action of the wind, rain or other natural force.

(Code 1994, § 14-28; Code 2005, § 14-25; Ord. No. 2002-19, § 3, 11-18-2002)

Sec. 14-26. Site drainage.

No improvement to any lot, tract or parcel of land within the city shall be authorized until a site drainage plan for surface water drainage is submitted and approved in accordance with this section and the applicable provisions of the city's flood damage prevention regulations contained in chapter 34. No drainage plan shall be approved that provides for the drainage of surface waters onto or through adjacent properties, or which impounds or otherwise restricts natural flows, to the detriment to any adjacent or upstream property owner.

(Code 1994, § 14-29; Code 2005, § 14-26; Ord. No. 2002-19, § 4, 11-18-2002)

Sec. 14-27. Restoration of property to original condition.

If construction work on any lot, tract or parcel of land within the city is stopped or abandoned for a period of 180 days, and the extension of applicable permits are not obtained in accordance with applicable codes of the city, such construction site shall be returned to its original natural state. All partially constructed buildings, foundations, temporary utility facilities, and other associated partially constructed improvements shall be completely removed and the site shall be cleaned of all materials, properly graded and revegetated.

(Code 1994, § 14-30; Code 2005, § 14-27; Ord. No. 2002-19, § 5, 11-18-2002)

Sec. 14-28. Housekeeping practices.

All construction sites within the city shall be maintained in such a way that no mud or dirt will leave the site. Every effort shall be made to ensure that all streets and storm inlets are protected, as well as all streams, creeks and other waterways. All disturbed areas in front and side yards shall be sodded on lots less than one acre. Lots one acre and larger may provide sodding throughout any ditch areas located in city rights-of-way and onto the property adjacent to the ditches at least ten feet. Additionally, another form of revegetation acceptable to the city may be provided on the remainder of the site as long as silt fencing or other approved methods are installed to keep soils eroded from the site from entering the city's storm sewer system.

(Code 2005, § 14-28; Ord. No. 2005-03, § 3, 1-17-2005)

Secs. 14-29--14-57. Reserved.

ARTICLE III. ELECTRICAL CODE*

***State law reference**—National Electrical Code applicable statewide for residential construction, V.T.C.A., Local Government Code § 214.214.

DIVISION 1. GENERALLY

Sec. 14-58. 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:

Apprentice electrician means a person licensed as an apprentice electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Conviction means a final determination of guilt or the forfeiture of bail, recognizance or appeal bond.

Electrical inspector means the city electrical inspector or his duly authorized deputies.

Electrical work means any labor or material used in installing, maintaining, or extending an electrical wiring system and the appurtenances, apparatus or equipment used in connection with the use of electrical energy in, on, outside, or attached to a building, residence, structure, property,

or premises. The term "electrical work" includes service entrance conductors as defined by the National Electrical Code.

Journeyman electrician means a person licensed as a journeyman electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Journeyman sign electrician means a person licensed as a journeyman sign electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Maintenance electrician means a person licensed as a maintenance electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Master electrician means a person licensed as a master electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Master sign electrician means a person licensed as a master sign electrician as recognized under V.T.C.A., Occupations Code ch. 1305.

Meter loop means the service entrance conductors, meter base, service overcurrent units, service disconnects, and the system and equipment grounding.

N.E.C. means the edition of the National Electrical Code as compiled by the National Fire Protection Association adopted in this article.

Residential wireman means a person licensed as a residential wireman as recognized under V.T.C.A., Occupations Code ch. 1305.002.

Safe condition, as applied to electrical installations and equipment, means installations and/or equipment which, in the opinion of the electrical inspector, can be used in service for which such installations or equipment are intended or likely to be used with minimum hazard to life, limb or property, thus being installations and equipment reasonably safe to persons and property.

(Code 1974, § 4-16(c); Code 1994, § 14-51; Code 2005, § 14-58; Ord. No. 2005-03, § 4, 1-17-2005)

Sec. 14-59. Purpose of article.

The object of this article is to reduce personal hazards and fire hazards from electrical causes. To accomplish this, the requirements set forth in this article are intended to provide a minimum standard for electrical work in the city.

(Code 1974, § 4-16(a); Code 1994, § 14-52; Code 2005, § 14-59)

Sec. 14-60. Scope of article.

The provisions of this article shall apply to all installations, use or maintenance of or repair to all electrical conductors, fittings, devices, signs, fixtures and/or motors (referred to in this article as "electrical work") within or on public and private buildings and premises located within the incorporated boundaries of the city.

(Code 1974, § 4-16(b); Code 1994, § 14-53; Code 2005, § 14-60)

Sec. 14-61. Liability.

This article shall not be construed to relieve from or lessen the responsibility of any person installing, operating or controlling any electrical wiring or electrical apparatus for damages to anyone thereby, or for full and faithful performance of the contract, nor shall the city be held as assuming any liability by reason of the inspection or reinspection authorized in this article or certificate or permit issued pursuant to the provisions of this article, nor shall either the electrical inspector or the city be held as assuming any liability by reason of the inspection or reinspection authorized in this article or the certificates of conformance or nonconformance issued as provided in this article or by reason of the approval or disapproval of any equipment authorized in this article.

(Code 1974, § 4-20.8; Code 1994, § 14-54; Code 2005, § 14-61)

Sec. 14-62. Adoption of code; compliance required; conflicts; service requirements.

(a) Any and all electrical work placed in or on any building or structure within the corporate boundaries of the city shall be installed in conformity with the regulations and standards set forth in the 2011 Edition of the National Electrical Code, which is hereby adopted, and a copy of which is on file in the city secretary's office; other applicable ordinances of the city; and statutes and administrative rules and regulations of the state and agencies thereof.

(b) Where local rules and regulations are set forth in this article, they shall take preference over any rules conflicting therewith.

(c) Local rules.

(1) *Service laterals.* Any service lateral, serving residential or commercial structures, shall be run underground and enclosed in not less than a two-inch schedule 40 PVC underground conduit.

(2) *Underground services.* All underground services shall be completely installed in not less than two-inch schedule 40 PVC conduit from the meter can to the transformer or underground tap box, and shall be buried at a minimum depth of two feet.

(Code 1974, § 4-20.6; Code 1994, § 14-56; Code 2005, § 14-63; Ord. No. 90-28, § 2, 12-3-1990; Ord. No. 99-36, § 3, 9-27-1999; Ord. No. 2005-03, § 5, 1-17-2005; Ord. No. 2010-08, § 3, 4-19-2010; Ord. No. 2016-21, § 3, 5-2-2016)

Sec. 14-63. License required.

No electrical work of any type shall be done by any individual or company without a current city electrical license, except that a property owner performing electrical work with his own hands in a building or on the surrounding property owned by him and registered as his homestead may be issued a permit to do electrical work on his homestead without a city license.

(Code 1974, § 4-20.6(a); Code 1994, § 14-57; Code 2005, § 14-64; Ord. No. 2005-03, § 6, 1-17-2005)

Sec. 14-64. Firefighting hazards.

No wire or other electrical apparatus shall be installed, operated or maintained over any street, alley, sidewalk or building which may be reasonably calculated to interfere seriously with the work of the fire department in the use of ladders or other apparatus, or which shall obstruct or render hazardous the use of fire escapes. On complaint of the city fire chief, the interfering obstructions or hazardous wire shall be removed or properly rearranged.

(Code 1974, § 4-20.6(b); Code 1994, § 14-58; Code 2005, § 14-65)

Sec. 14-65. Job supervision.

There shall be at least one journeyman, master, or, where appropriate, residential wireman licensed electrician on each property where electrical work of any type is being done by an apprentice electrician.

(Code 1994, § 14-59; Ord. No. 2005-03, § 7, 1-17-2005; Code 2005, § 14-66)

Sec. 14-66. Identification of service vehicles.

All persons engaged in the electrical business in the city shall identify all service vehicles used in such business with signs showing the name, business or home address, and exchange and telephone number of such business. This information must be correct at all times and must be permanently attached to each side of such vehicle in full view at all times.

(Code 1974, § 4-20.4(g); Code 1994, § 14-60; Code 2005, § 14-67)

Secs. 14-67--14-92. Reserved.

DIVISION 2. APPEALS

Sec. 14-93. Appeal of decisions by the electrical inspector.

(a) Any person aggrieved by a decision or ruling of the electrical inspector shall have the right of appeal to the construction board of adjustment and appeals for its review. Such appeal shall be perfected by a request in writing to the chairperson of the board for a hearing, in which the following information shall be contained:

(1) Name, address and primary e-mail address of the person making the appeal.

(2) Facts surrounding the particular ruling or refusal to make a ruling.

(3) The ruling, if any, of the electrical inspector.

(4) Reasons why such ruling should be set aside, or if a ruling was refused, why such ruling should be made.

(b) During the pendency of any appeal to the construction board of adjustment and appeals, the ruling of the electrical inspector shall be in full force and effect.

(Code 2005, § 14-93; Ord. No. 2010-08, § 3, 4-19-2010)

Secs. 14-94--14-116. Reserved.

DIVISION 3. ELECTRICAL INSPECTOR

Sec. 14-117. Creation of office; qualifications.

There is hereby created the office of electrical inspector of the city. The person chosen to fill the office of electrical inspector shall be of good moral character; shall be competent and well versed in the rules and regulations of the National Electrical Code, of such statutes of the state as are applicable, and the terms of this division; shall be possessed of such executive ability as is requisite for the performance of his duties; shall have a thorough knowledge of the standard materials and methods used in the installation of electrical equipment; and shall be well versed in approved methods of construction for safety to persons and property.

(Code 1974, § 4-20(a); Code 1994, § 14-96; Code 2005, § 14-117; Ord. No. 2005-03, § 9, 1-17-2005)

Sec. 14-118. Responsibility for inspection and fees.

It shall be the duty of the electrical inspector to enforce the provisions of this division. He shall, upon application by electricians licensed by the city, collect and account for the fees and deposits fixed and provided for in this division, and shall make inspections of electrical installations and perform such other acts and duties as are provided for in this division.

(Code 1974, § 4-20.1(a); Code 1994, § 14-99; Code 2005, § 14-118)

Sec. 14-119. Appointment of assistants.

The electrical inspector is empowered to appoint such assistants as are necessary for the proper conduct of his office and the inspection of electrical work as provided for in this division, subject to approval by the city manager. Salaries of any such assistants shall be determined by the city manager.

(Code 1974, § 4-20.1(d); Code 1994, § 14-101; Code 2005, § 14-119)

Sec. 14-120. Outside interests prohibited.

It shall be unlawful for the electrical inspector or for any of his assistants to engage in the business of the sale, installation or maintenance of electrical equipment, either directly or

indirectly, and they shall have no financial interest in any concern engaged in such business in the city at any time while holding such office as provided in this division.

(Code 1974, § 4-20.1(e); Code 1994, § 14-102; Code 2005, § 14-120)

Sec. 14-121. Removal from office.

The city manager may remove from office the electrical inspector or any of his assistants at any time, with or without cause.

(Code 1974, § 4-20.1(f); Code 1994, § 14-103; Code 2005, § 14-121)

Sec. 14-122. Liability of inspector and assistants.

Neither the electrical inspector, nor any of his assistants shall, when acting in good faith and without malice, be liable for damages arising by reason of duties performed under the provisions of this division.

(Code 1974, § 4-20.1; Code 1994, § 14-104; Code 2005, § 14-122)

Sec. 14-123. Authority.

(a) *Inspections*. The electrical inspector shall have the right during reasonable hours to enter any building or premises in the discharge of his official duties, or for the purpose of making any inspection, reinspection or test of electrical equipment contained therein, or its installation.

(b) *Interference unlawful*. It shall be unlawful for any person to interfere with the electrical inspector in the discharge of his duties or to prevent or in any manner attempt to prevent him from carrying out the provisions of this division.

(c) *Right to remove obstructions*. The electrical inspector shall have the right to remove or compel the removal of any obstruction such as lath, plastering, ceiling or flooring which may hinder a full and complete investigation of such wires or apparatus as the inspector may deem necessary to inspect.

(d) *Condemnation of conductors*. The electrical inspector may remove or compel the removal of any conductors which are enclosed in conduit or are otherwise inaccessible for complete inspection. When such conductors are not in accordance with the requirements of this division or the National Electrical Code, or are found to be otherwise unsafe to life or property, the electrical inspector shall have the right to condemn, disconnect and cause the owner of such conductor or material to immediately correct such conductor or have it removed.

(Code 1974, § 4-20.2(a)--(d); Code 1994, § 14-105; Code 2005, § 14-123)

Sec. 14-124. Notice to comply.

Where any electrical work is found by the electrical inspector to be dangerous to persons or property, the person owning, using or operating such electrical work shall be notified in writing to make any changes or repairs which are required to make such electrical work in safe condition, and if such required work is not completed within five working days, or as soon as specified by the electrical inspector, the inspector shall have the authority to disconnect or cause to be disconnected all electrical equipment of installations and/or the premises in or upon which such equipment is located. Any person failing or refusing to repair or remove such equipment within the specified time, after the receipt of such notice shall be subject to the penalty provided in this division. Each day that such electrical work shall remain not repaired, removed or changed as required by the electrical inspector shall be considered a separate offense within the intent and meaning of this division.

(Code 1974, § 4-20.2(e); Code 1994, § 14-106; Code 2005, § 14-124)

Sec. 14-125. Stop work notice.

The electrical inspector shall cause the cessation of any electrical work being done in any manner which violates the provisions of this division, and he shall cause the discontinuance of maintenance or operations, or the use of materials, which violate the provisions of this division; and upon determining that particular work should cease, the inspector shall post a notice to that effect on the premises and thereafter no person shall proceed with electrical work until the inspector has cancelled the stop work notice. The electrical inspector may attach to electrical work or electrical meters any notice or seal to prevent the use of electricity; and it shall be unlawful for any person to use any seal or break, change, destroy, tear, mutilate, cover, or otherwise deface or injure any such official notice or seal posted by the electrical inspector.

(Code 1974, § 4-20.2(f); Code 1994, § 14-107; Code 2005, § 14-125)

Sec. 14-126. Authority to disconnect.

In case of an emergency, where necessary for the safety of persons or property, or where electrical equipment may interfere with the work of the fire department, the electrical inspector shall have the authority to immediately disconnect or cause the immediate disconnection of any electrical equipment, and without notice to anyone.

(Code 1974, § 4-20.2(g); Code 1994, § 14-108; Code 2005, § 14-126)

Sec. 14-127. Change of occupancy, compliance required.

The electrical inspector shall be empowered to order compliance with the provisions of this division where a change of occupancy occurs within a building which requires changes or alteration to existing wiring.

(Code 1974, § 4-20.2(h); Code 1994, § 14-109; Code 2005, § 14-127)

Sec. 14-128. Special rulings.

The electrical inspector shall make all decisions pertaining to the installation, repair or other alteration of all electrical wiring, devices and equipment provided for in this division, such decisions to be made after taking into consideration the National Electrical Code, such statutes of the state as are applicable to such decisions, the provisions of this division, and in light of the standards generally recognized by the electrical trade concerning the safe and proper installation of electrical work. All special rulings shall be reduced to writing and kept on file in the office of the inspector.

(Code 1974, § 4-20.2(i); Code 1994, § 14-110; Code 2005, § 14-128)

Sec. 14-129. Appeals.

Any person aggrieved by a decision of the electrical inspector shall have such right of appeal as is provided in section 14-93.

(Code 1974, § 4-20.2(j); Code 1994, § 14-111; Code 2005, § 14-129)

Secs. 14-130--14-158. Reserved.

DIVISION 4. PERMITS

Sec. 14-159. Required.

(a) No person shall undertake or complete any electrical installation or install, erect or alter any electrical work in or on any building or premises in the city without first securing a permit therefor from the office of the electrical inspector. No permit shall be issued for electrical work except that which is authorized under this division.

(b) In cases where licenses, permits, fees and bonds are required for the installation or repair of electrical work for any purpose, such electrical work shall be installed or repaired in conformity with such provisions of this division as are applicable.

(Code 1974, § 4-20.4(a)--(c); Code 1994, § 14-121; Code 2005, § 14-159)

Sec. 14-160. Who may obtain.

(a) Except as otherwise specifically provided in this division, no permit shall be issued to any person who is not the holder of a valid unexpired master electrician's license. A master electrician who is employed as a master electrician for a person shall take out electrical permits only for that person and shall supervise, direct and control the electrical work for which the electrical permit is obtained. A master electrician who is engaged in the electrical business for himself shall take out electrical permits for his business only and no electrical permits shall be taken out by any master electrician who does not supervise, direct and control the electrical work for which the permit is obtained. Each master electrician may appoint not more than two of his full-time employees to act as his agents in obtaining permits by filing with the electrical inspector an affidavit sworn to before an officer authorized to administer oaths, stating the name, address and primary e-mail address of each such agent, that each agent is a regular and full-time employee under the supervision of such master electrician, and that such master electrician assumes all and full responsibility for any permit taken out or applied for by any such agent. Such affidavit shall be permanently filed by the electrical inspector, but this provision is intended only as a convenience to master electricians in handling ordinary electrical work and shall never be construed as making the delivery of a permit to any agent mandatory upon the electrical inspector.

(b) A property owner performing electrical work with his own hands in a building or on the surrounding property owned by him and registered as his homestead may be issued a permit to do electrical work on his homestead.

(Code 1974, §§ 4-16(c), (b), 4-20.4(c); Code 1994, § 14-122; Code 2005, § 14-160; Ord. No. 2005-03, § 11, 1-17-2005)

Sec. 14-161. Application.

Applications for permits required by this division must be made in writing by the person employed to do the work, or his authorized agent as provided in section 14-160, and will be submitted upon forms provided by the electrical inspector for that purpose.

(Code 1974, § 4-20.4(d); Code 1994, § 14-123; Code 2005, § 14-161; Ord. No. 2005-03, § 12, 1-17-2005)

Sec. 14-162. Schedule of fees.

Before any permit will be granted for the installation or alteration of electrical work, the licensed electrician making application for such permit shall pay to the electrical inspector the fees in such amount as set by resolution and printed in Appendix D to this Code.

(Code 1974, § 4-20.4(e); Code 1994, § 14-124; Code 2005, § 14-162)

Sec. 14-163. Hours for submitting applications.

Applications for permits will only be accepted when presented during normal working hours of the electrical department.

(Code 1974, § 4-20.4(f); Code 1994, § 14-125; Code 2005, § 14-163; Ord. No. 99-36, § 11, 9-27-1999)

Sec. 14-164. Issuance.

When the electrical inspector finds the application to be correct, and the plans and diagram or specifications are approved and the required fees have been paid, he shall cause the permit to be issued. Upon receipt of such permit, the electrician may start the proposed job and make the

installation described in his application, requesting inspection by the inspector in the proper sequence as the work progresses.

(Code 1974, § 4-20.4(g); Code 1994, § 14-126; Code 2005, § 14-164)

Sec. 14-165. Unspecified work not authorized.

No permit shall be deemed to authorize anything not stated in the application, and for any misrepresentation in such application the permit shall be suspended; and if such misrepresentation appears to be willful, the permit shall be revoked.

(Code 1974, § 4-20.4(i); Code 1994, § 14-128; Code 2005, § 14-165)

Sec. 14-166. Terms of permit.

If the work authorized by a permit is not begun within 90 days from the date thereof, such permit shall thereupon and thereafter be null and void; and before doing any further work at the location designated in such permit, a new permit must be obtained in like manner as the first, and only upon payment of such fees and deposits as are specified in this division. The permit shall be valid for 180 days. However, the electrical inspector may extend the initiation or expiration date where he finds that extraordinary circumstances beyond the control of the permit holder have made it impossible to initiate or complete the work before the original date.

(Code 1974, § 4-20.4(j); Code 1994, § 14-129; Code 2005, § 14-166; Ord. No. 2005-03, § 14, 1-17-2005)

Sec. 14-167. Permits for partial jobs.

When one electrician completes the rough work, in whole or in part, on any electrical wiring or installation of fixtures or equipment and a second electrician is called upon to complete the work in whole or in part, then, in that event, a separate permit is required for which regular fees shall be paid for the work to be done.

(Code 1974, § 4-20.4(m); Code 1994, § 14-132; Code 2005, § 14-167; Ord. No. 2002-19, § 8, 11-18-2002)

Sec. 14-168. Separate permit required.

A separate permit shall be required for each separate building, store space or apartment, whether such unit is metered separately or conjunctively, and a service permit shall be taken on all units, whether supplied from a central metering station or directly from the electrical supply agency. If the permittee does not complete the electrical work for which the permit has been issued, then the contractor who finished such work shall apply for a new permit on such work. There shall be only one permit issued or outstanding at the same time for any one installation of electrical equipment.

(Code 1974, § 4-20.4(n); Code 1994, § 14-133; Code 2005, § 14-168)

Sec. 14-169. Permit not transferrable.

Each permit issued under the terms of this division shall be personal to the permittee and shall not be assigned or transferred to any other person; and, except as otherwise specifically provided in this division, it shall be unlawful:

(1) For one person to obtain a permit in the name of another person, except as specified in section 14-160(a).

(2) For one person to do or perform any electrical work under the permit issued to another person.

(3) For one person to suffer, allow or permit another person to do or perform any electrical work under the permit under such other person's name.

(Code 1974, § 4-20.4(p); Code 1994, § 14-134; Code 2005, § 14-169)

Secs. 14-170--14-197. Reserved.

DIVISION 5. INSPECTIONS

Sec. 14-198. Inspector to be notified.

Upon completion of any installation of electrical equipment which has been made under a permit, it shall be the duty of the licensed master electrician, or his duly authorized agent, making the installation to notify the electrical inspector that the work is ready for inspection.

(Code 1974, § 4-20.3(a); Code 1994, § 14-146; Code 2005, § 14-198; Ord. No. 2005-03, § 17, 1-17-2005)

Sec. 14-199. Concealed electrical work.

When any electrical equipment is to be hidden from view by the permanent placement of parts of the building and/or equipment, the licensed master electrician installing the equipment shall notify the electrical inspector, and such equipment shall not be concealed until it has been inspected and approved by the electrical inspector.

(Code 1974, § 4-20.3(e); Code 1994, § 14-150; Code 2005, § 14-199; Ord. No. 2005-03, § 21, 1-17-2005)

Sec. 14-200. Uncovering concealed equipment.

The electrical inspector shall have the authority to require any person to uncover any wiring or electrical equipment which has been concealed without his knowledge or permission for which inspection is required pursuant to this division.

(Code 1974, § 4-20.3(f); Code 1994, § 14-151; Code 2005, § 14-200)

Sec. 14-201. Certificate of nonconformance.

If, upon inspection, an electrical installation is not found to be in full conformity with the provisions of this division, the electrical inspector shall issue a notice of nonconformance and shall notify the licensed master electrician making the installation of the defects which have been found to exist. All defective work shall be corrected and brought into conformity with the provisions of this division before any further electrical work will be permitted within or on the building or premises and before the licensed master electrician making the installation shall be issued any other permits to perform any other electrical work.

(Code 1974, § 4-20.3(k); Code 1994, § 14-156; Code 2005, § 14-201)

Sec. 14-202. Fees.

No fee shall be charged against the permit holder for the initial inspection; however, when work is found to be incomplete or unsatisfactory after the inspection is requested, a fee set by resolution and printed in Appendix D to this Code shall be made for each reinspection.

(Code 1974, § 4-20.3(l); Code 1994, § 14-157; Code 2005, § 14-202; Ord. No. 99-36, § 13, 9-27-1999)

Sec. 14-203. Responsibility for defects.

Every person licensed in conformance with this division shall be responsible for any defect in electrical work, insofar as correction thereof is concerned, installed by him until such time as a certificate of conformance and approval has been issued by the electrical inspector, and any and all defects that may have been concealed by such person and discovered by the electrical inspector after a certificate of conformance has been issued approving such work. After the issuance of the certificate of conformance, the person in whose name the electrical work is contracted shall be responsible for all defects caused by such person.

(Code 1974, § 4-20.3(m); Code 1994, § 14-158; Code 2005, § 14-203)

Secs. 14-204--14-228. Reserved.

DIVISION 6. ELECTRICIAN'S LICENSES

Sec. 14-229. Required.

Except as otherwise provided in this division, no person shall engage in the business of contracting for, installing, altering or repairing any electrical work within the city which is regulated by this division unless such person shall hold a valid, unexpired master electrician's license granted in accordance with state law.

(Code 1974, § 4-20.5(a); Code 1994, § 14-191; Code 2005, § 14-229)

Sec. 14-230. Applications.

Every application for a license as a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, residential wireman, maintenance electrician, or apprentice electrician shall be made upon a form furnished by the electrical inspector. Every application shall state the name, date of birth, residence and business address, and primary e-mail address of the applicant. Each applicant shall supply a copy of their current state electrical license.

(Code 1994, § 14-192; Code 2005, § 14-230; Ord. No. 2005-03, § 27, 1-17-2005; Ord. No. 2010-08, § 3, 4-19-2010)

Sec. 14-231. Term and renewal.

No license under this division shall be issued for more than a year, and such license may be renewed from year to year upon application by the holder of such license. All licenses shall expire on December 31 of each year.

(Code 1994, § 14-193; Code 2005, § 14-231; Ord. No. 2005-03, § 28, 1-17-2005)

Sec. 14-232. Issuance.

Upon the submission of satisfactory proof that an applicant is licensed by the state as a master electrician, journeyman electrician, master sign electrician, journeyman sign electrician, residential wireman, maintenance electrician, or apprentice electrician, the electrical inspector, upon payment of such fees and upon fulfillment of such other requirements as are specified in this division, shall issue to each applicant the class of license which such person is qualified to receive under the provisions of this division.

(Code 1994, § 14-196; Code 2005, § 14-232; Ord. No. 2005-03, § 30, 1-17-2005)

Sec. 14-233. Restrictions on work beyond scope of license.

It shall be unlawful for the holder of any license issued under the provisions of this division to engage in any phase of the electrical business or perform any work in the electrical trade other than such business or work authorized by the class of license or permit held by him. The master, journeyman, or when applicable, residential wireman electrician responsible shall be present, on the site, whenever electrical materials, products or equipment are being installed.

(Code 1994, § 14-197; Code 2005, § 14-233; Ord. No. 2005-03, § 31, 1-17-2005)

Secs. 14-234--14-251. Reserved.

ARTICLE IV. PLUMBING CODE*

***State law reference**—Municipal authority concerning plumbing and house draining, V.T.C.A., Local Government Code § 214.012.

Sec. 14-252. International Plumbing Code adopted.

The International Plumbing Code, 2012 Edition, as published by the International Code Council, Inc., a copy of which is on file with the city secretary, is hereby adopted and made a part of this article.

(Code 1994, § 14-232; Code 2005, § 14-252; Ord. No. 2002-19, § 13, 11-18-2002; Ord. No. 2005-03, § 38, 1-17-2005; Ord. No. 2010-08, § 4, 4-19-2010; Ord. No. 2016-21, § 4(14-252), 5-2-2016)

Sec. 14-253. Amendments.

The 2012 Edition of the International Plumbing Code, as adopted in section 14-252, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

101.1 *Title.* These regulations shall be known as the Plumbing Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 106.6.2. Section 106.6.2 is hereby amended to read as follows:

106.6.2 *Fee schedule.* The fees for permits required hereunder shall be in accordance with the schedule of fees as set by resolution and printed in Appendix D to the Code of Ordinances.

Section 106.6.3. Section 106.6.3 is hereby amended to read as follows:

106.6.3. *Fee refunds.* The code official shall authorize the refunding of fees where the full amount of any fee paid hereunder was erroneously paid or collected.

Section 109.2. Section 109.2 is hereby amended to read as follows:

109.2 *Membership of the board of appeals*. The board shall be appointed by the city council and the qualifications of members of the board, and the terms for which such members shall serve, shall be as determined by the city council. The city council may remove any member of the board at any time, with or without cause, regardless of whether such member has been appointed for a definite or an indefinite term.

Section 305.4.1. Section 305.4.1 is hereby amended to read as follows:

305.4.1. *Sewer depth.* Building sewers, which connect to private sewage disposal systems, shall be a minimum of 12 inches below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches below grade.

Section 608.16.5 Section 608.16.5 is hereby amended to read as follows:

A. Irrigation systems shall be installed in accordance with this section and other applicable rules and regulations of the city.

B. Irrigation system design drawings shall be prepared by a master plumber whose license number shall appear on the drawings, or by a state professional engineer, a licensed irrigation installer, or a licensed landscape architect. The latter three professionals shall seal, sign and date their drawings.

C. It shall be unlawful for any person for hire to install all or any part of an irrigation system within the city unless that person holds a master plumber license issued by the Texas State Board of Plumbing Examiners or a valid installer's license issued by the Texas Commission on Environmental Quality ("TCEQ"), in accordance with V.T.C.A., Occupations Code § 1903.251.

D. The owner of the property on which an irrigation system is to be installed may install all of the irrigation system with the exception of the connection to the potable water source, the water meter and the required backflow prevention device, each of

which must be installed and appropriately connected by a qualified person as noted in subsection C of this section.

E. It shall be unlawful for any person to install all or any portion of an irrigation system without having first received a permit therefor from the city. An irrigation installation permit for the installation of the connection to the potable water source, the water meter and the required backflow prevention device shall not be issued to any person who is not a qualified person as noted in subsection C of this section.

F. The city shall have no obligation to maintain or protect, or to repair or replace, all or any part of an irrigation system, existing or future, that is located within a public right-of-way or easement, that is damaged or destroyed, or required to be removed, incident to or as a result of roadway and/or utility or drainage construction, maintenance or operation.

G. Exemptions to the above permit requirements are:

(1) Systems associated with on-site sewage disposal systems;

(2) Irrigation systems used on or by an agriculture operation; or

(3) Irrigation systems connected to a groundwater well used for domestic purposes.

Section 904.1. Section 904.1 is hereby amended to read as follows:

904.1. *Roof extension*. All open vent pipes that extend through a roof shall be terminated at least six inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least seven feet (2,134 mm) above the roof.

(Code 1994, § 14-232; Code 2005, § 14-253; Ord. No. 2002-19, § 14, 11-18-2002; Ord. No. 2009-02, § 2, 3-23-2009; Ord. No. 2010-08, § 4, 4-19-2010; Ord. No. 2016-21, § 4(14-253), 5-2-2016)

Secs. 14-254--14-273. Reserved.

ARTICLE V. MECHANICAL CODE

Sec. 14-274. International Mechanical Code adopted.

The 2012 Edition of the International Mechanical Code, including appendices except Appendix B thereof, as published by the International Code Council, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted by reference and made a part of this article.

(Code 1994, § 14-256; Code 2005, § 14-274; Ord. No. 2002-19, § 15, 11-18-2002; Ord. No. 2005-03, § 39, 1-17-2005; Ord. No. 2010-08, § 5, 4-19-2010; Ord. No. 2016-21, § 5(14-274), 5-2-2016)

Sec. 14-275. Amendments.

The 2012 Edition of the International Mechanical Code, as adopted in section 14-274, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

101.1 *Title.* These regulations shall be known as the Mechanical Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 106.5.2. Section 106.5.2 is hereby amended to read as follows:

106.5.2 *Fee schedule*. The fees for permits required hereunder shall be in accordance with the schedule of fees as set by resolution and printed in Appendix D to the Code of Ordinances.

Section 106.5.3. Section 106.5.3 is hereby amended to read as follows:

106.5.3. *Fee refunds.* The code official shall authorize the refunding of fees where the full amount of any fee paid hereunder was erroneously paid or collected.

Section 109.2. Section 109.2 is hereby amended to read as follows:

109.2 *Membership of the board of appeals*. The board shall be appointed by the city council and the qualifications of members of the board, and the terms for which such members shall serve, shall be as determined by the city council. The city council may remove any member of the board at any time, with or without cause, regardless of whether such member has been appointed for a definite or an indefinite term.

(Code 1994, § 14-257; Code 2005, § 14-275; Ord. No. 2002-19, § 16, 11-18-2002; Ord. No. 2010-08, § 5, 4-19-2010; Ord. No. 2016-21, § 5(14-275), 5-2-2016)

Secs. 14-276--14-298. Reserved.

ARTICLE VI. FUEL GAS CODE

Sec. 14-299. International Fuel Gas Code adopted.

The 2012 Edition of the International Fuel Gas Code, as published by the International Code Council, Inc., a copy of which has been filed with the city secretary, is hereby adopted and made a part of this article.

(Code 1994, § 14-281; Code 2005, § 14-299; Ord. No. 2002-19, § 17, 11-18-2002; Ord. No. 2005-03, § 40, 1-17-2005; Ord. No. 2010-08, § 6, 4-19-2010; Ord. No. 2016-21, § 6(14-299), 5-2-2016)

Sec. 14-300. Amendments.

The 2012 Edition of the International Fuel Gas Code, as adopted in section 14-299, is hereby amended as follows:

Section 101.1. Section 101.1 is hereby amended to read as follows:

101.1 *Title.* These regulations shall be known as the Fuel Gas Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

Section 106.6.2. Section 106.6.2 is hereby amended to read as follows:

106.6.2 *Fee schedule.* The fees for permits required hereunder shall be in accordance with the schedule of fees as set by resolution and printed in Appendix D to the Code of Ordinances.

Section 106.6.3. Section 106.6.3 is hereby amended to read as follows:

106.6.3 *Fee refunds*. The code official shall authorize the refunding of fees where the full amount of any fee paid hereunder was erroneously paid or collected.

Section 109.2. Section 109.2 is hereby amended to read as follows:

109.2 *Membership of the board of appeals.* The board shall be appointed by the city council and the qualifications of members of the board, and the terms for which such members shall serve, shall be as determined by the city council. The city council may remove any member of the board at any time, with or without cause, regardless of whether such member has been appointed for a definite or an indefinite term.

(Code 1994, § 14-282; Code 2005, § 14-300; Ord. No. 2002-19, § 18, 11-18-2002; Ord. No. 2010-08, § 6, 4-19-2010; Ord. No. 2016-21, § 6(14-299), 5-2-2016)

Secs. 14-301--14-318. Reserved.

ARTICLE VII. SUBSTANDARD BUILDINGS AND STRUCTURES*

***State law reference**—Municipal authority concerning substandard buildings, V.T.C.A., Local Government Code § 214.001 et seq.; additional authority to secure substandard building, V.T.C.A., Local Government Code §§ 214.0011, 214.0015.

Sec. 14-319. Building and standings commission created; composition.

There is hereby created the building and standards commission, composed of five members, which shall consist of the members of the board of adjustment, and alternate members appointed by city council, who shall serve in the absence of one or more regular members when requested to do so by the city manager/designee. Persons appointed to the board of adjustment shall also automatically be appointed to the building and standards commission, and such appointment shall constitute one position. Persons appointed to the board of adjustment/building and standards commission shall hold no other position in the city government, and shall serve without pay. Each member shall be a qualified voter at the time of appointment and shall be a resident within the corporate limits of the city and shall have been a resident for a period of 12 months prior to appointment. The appointment of the members shall be for a term of two years or until replacements are appointed corresponding and indistinguishable with the requirements for the board of adjustment.

(Code 2005, § 14-319; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-320. Authority and purpose.

(a) This article is remedial and essential to the public interest, safety, health, and welfare and it is intended that this article be liberally construed to effectuate its purposes. This article establishes minimum standards for the continued use and occupancy of all buildings/structures regardless of the date of their construction; materials or methods used to construct a building/structure or improvements, including the foundation, structural elements, electrical wiring, plumbing, fixtures, entrances, or exits; addresses conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; and incorporates the building codes or other city codes and statutory provisions relating to the condition, use, or appearance of property within the city. The provisions of this article are hereby adopted pursuant the city Charter, the Texas Constitution, Article XI, Section 5, and in accordance with V.T.C.A., Local Government Code chs. 54, 214 and 342.

(b) The purposes of this article include, but are not limited to, the following:

(1) To establish the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, regardless of the dates of construction, in order to safeguard the public health, safety, and welfare and to protect property.

(2) To provide the authority to order and direct the method of securing property that is unoccupied by its owners, lessees, or other invitees, and which is unsecured from unauthorized entry to the extent that such buildings or structures could be entered or used by vagrants or other uninvited persons or could be entered or used by children.

(3) To provide the authority to address, and direct the method of addressing buildings and structures which, although boarded up, fenced, or otherwise secured in any manner, exhibit conditions that may constitute a danger to the public, even though secured from entry, or the means used to secure the building or structure is inadequate to prevent unauthorized entry or use of the building by vagrants or other uninvited persons or could be entered or used by children. The city may require the building or structure, which endangers the public health and safety of the occupants of said building and structure

and the general public, to be vacated, secured, repaired, removed, and/or demolished by the owner and/or the occupants thereof to be relocated.

(4) To provide fire safety of buildings or improvements, including provisions related to materials, types of construction or design, warning devices, fire suppression devices, availability of water supply for extinguishing fires, location, design or width of entrances or exits, and enforcement of all city building and fire codes.

(Code 2005, § 14-320; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-321. Minimum building standards adopted; investigation.

Any building or structure whose condition has deteriorated or is operated or maintained in violation of the minimum standards for the continued use and occupancy of all types of buildings and structures within the city, as adopted and established in this article, is hereby subject to investigation upon presentation of evidence of probable cause for issuance of a search warrant to a magistrate by the code enforcement official, fire marshal, or health officer designated in accordance with V.T.C.A., Code of Criminal Procedure art. 18.05. Prior to requesting issuance of a search warrant, such official shall obtain approval of the city manager/designee.

(Code 2005, § 14-321; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-322. Dangerous buildings, structures and nuisances defined.

Any building or structure, regardless of date of its construction, having any of the following defects, shall be deemed to be substandard and/or unfit for human habitation and as a result, a danger to the public health, safety and welfare and thus, declared to be a dangerous building or structure:

(1) Any building or structure that has become deteriorated or damaged such that its roof, or walls, is not weathertight and waterproof.

(2) Any building or structure that is so structurally deteriorated or damaged that it is in danger of collapse or that cannot be expected to withstand reasonably anticipated weather conditions, such as storms or hurricanes.

(3) Conditions of any building or structure that violate any provision of the city's building, electrical, plumbing, fire, or other such codes, specifically including conditions subject to the city nuisance ordinance, when such nonconformity constitutes a danger to the public health, safety, and welfare, including any device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(4) Buildings and structures, regardless of their structural condition, that have been, during times that they were not actually occupied by their owners, lessees or other legal invitees, left unsecured from unauthorized entry to the extent that they may be entered by vagrants or other uninvited persons as a place of harborage or could be entered by children.

(5) Buildings and structures which are secured by a means inadequate to prevent unauthorized entry or use in the manner described in subsection (4) of this section.

(6) A wall or other vertical member that lists, leans or buckles to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base as may be determined from the exterior of the building or structure.

(7) Exclusive of the foundation, 33 percent or more damage or deterioration to the supporting member or members or 50 percent of damage or deterioration to the nonsupporting enclosing or outside walls or coverings.

(8) An improperly distributed load upon the floor or roof, or an overloaded roof or floor, or a floor or roof with insufficient strength to be reasonably safe for the purpose used.

(9) Inadequate facilities for egress in case of fire or panic or insufficient stairways, elevators, or fire escapes as may be determined from the exterior of the building or structure.

(10) When a building which is partially constructed has not had any significant construction work done on it in the preceding six months, and it is not secured by a fence or other means to prevent children and vagrants from entering the building.

(11) Parts of buildings and structures that may fall and injure a person or property.

(12) Hazardous or unsanitary premises that have an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, rat harborages, stagnant water, combustible materials and similar materials or conditions that constitute fire, health or safety hazards in the opinion of the code enforcement official.

(Code 2005, § 14-322; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-323. Declaration of nuisance; conduct prohibited.

Any building or structure which has any or all of the conditions or defects described in section 14-322, where such condition or conditions pose a threat or potential threat to life, health, property, or human safety; or conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects, and rodents, is hereby declared to be a public nuisance, is prohibited as unlawful, and shall be abated according to provisions of this article. It is an offense for an owner or occupant or other person having control of the building, structure or property to fail to abate such public nuisance. Therefore failure to abate such condition may also be prosecuted as a criminal misdemeanor offense. It is a further offense and unlawful for any person to cause, permit, or allow a dangerous building after the 30th day after the date on which the building and standards commission finds a condition of nuisance and orders abatement, or after such extended date as may be lawfully permitted by the building and standards commission.

(Code 2005, § 14-323; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-324. Commencement of proceedings.

(a) When the code enforcement official has determined that a building/structure is a dangerous building, he will set a date and time for a public hearing before the building and standards commission to determine if the building complies with the minimum standards established in this article. The code enforcement official may seek voluntary compliance with the owner, lienholder or mortgagee of the building before seeking a hearing before the commission. If the code enforcement official receives voluntary compliance from the owner, lienholder or mortgagee, a public hearing is not required.

(b) In addition, in accordance with V.T.C.A., Local Government Code § 214.0011, the code enforcement official may secure a building if it is determined it violates the minimum standards for use and occupancy of the building and is unoccupied or is occupied only by persons who do not have a right of possession if:

(1) Before the 11th day after the building is secured, the owner is given notice in accordance with V.T.C.A., Local Government Code § 214.0011(c); and

(2) The building and standards commission conducts a hearing within 20 days after a request for hearing is filed by the owner, provided said request for hearing is filed within 30 days after the building is secured.

(Code 2005, § 14-324; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-325. Notice of hearing before the building and standards commission.

Notice of all proceedings before the building and standards commission shall be given on or before the tenth day before the date fixed for hearing before the building and standards commission and must state the date, time, and place of the hearing:

(1) By personal delivery, by certified mail, return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property sent to the last known address, and each mortgagee, lienholder and each holder of a recorded lien against the affected property, as shown by the records of the county clerk in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing lien or other applicable instruments on file in the office of the county clerk.

(2) To all unknown owners by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front as practicable.

(3) In addition, the notice must be published in a newspaper of general circulation in the city on one occasion before the tenth day preceding the date fixed for the hearing.

(4) The notice shall contain the following:

a. 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 real property records of the county clerk where the real property is primarily situated.

b. An identification, which is not required to be a legal description of the building and the property on which it is located.

c. A description of the violation of the municipal standards that is present at the building.

d. A statement that the city will vacate, secure, remove, repair or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.

e. A statement that the owner, lienholder, or mortgagee will be required to submit proof, at the hearing, of any work that may be required to comply with this article and the time it will take to reasonably perform the work.

f. The time, date, and place of the hearing.

(5) Notice to a condominium association shall conform to the requirements of V.T.C.A., Local Government Code § 54.035, as may be amended.

(6) In addition, if the city files a notice in the official public records of real property where the real property is primarily situated pertaining to the hearing, as set forth above, the notice shall bind all subsequent holders of interest in the property, according to state law.

(7) All meetings of the commission shall be open be open to the public.

(Code 2005, § 14-325; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-326. Functions.

The building and standards commission panel may:

(1) Order the repair, within a fixed period, of buildings found to be in violation of an ordinance.

(2) Declare a building substandard in accordance with the powers granted by this article.

(3) Order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist.

(4) Issue orders or directives to any peace officer of the state, including a sheriff or constable or the chief of police of the municipality, to enforce and carry out the lawful orders or directives of the building and standards commission panel.

(5) Determine the amount and duration of the civil penalty the city may recover in accordance with V.T.C.A., Local Government Code § 54.017. A determination of the subject civil penalty is final and binding and constitutes prima facie evidence of such penalty in a court of competent jurisdiction in a civil suit brought by the city for final judgment and may be enforced by the city secretary filing with the district clerk of the appropriate county, a certified copy of the order of the building and standards commission panel establishing the amount and duration of the penalty.

(Code 2005, § 14-326; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-327. Standards for repair, vacation or demolition.

(a) *Ordered repaired.* If the alleged dangerous building can be feasibly repaired or the condition remedied so that it will no longer exist in violation of the terms of this article, it shall first be ordered remedied or repaired. Demolition shall be regarded as a remedy of last resort.

(b) *Ordered vacated and secured.* If the dangerous building is in such a condition as to make it hazardous to the health, safety, or general welfare of its occupants or the public, it will be ordered vacated and secured.

(c) *Ordered demolished.* In any case where a dangerous building is 50 percent or more damaged or decayed or deteriorated in its structure, or 50 percent or more diminished in its value due to damage, decay, or deterioration, a presumption shall arise that the building cannot be repaired. Such presumption may be appropriately rebutted by the weight of the evidence. Value may be determined by comparing the most recent valuation for the building by the appropriate tax appraisal district with the valuation of the building two years prior to the most recent valuation by the appraisal district. Principles of sound engineering practices shall be respected.

(d) *Settlement.* In all cases of settlement in which a responsible party enters into a voluntary demolition agreement to accept city serviced demolition, all settlement agreements shall be reviewed by the building and standards commission prior to execution by a duly authorized city official possessing settlement authority.

(Code 2005, § 14-327; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-328. Building and standards commission hearing; burden of proof.

In a public hearing to determine whether a building complies with the standards set out in this article the owner, lienholder, mortgagee, manager or occupant has the burden of proof to demonstrate the scope of work that may be required to comply with this article and the time it will take to reasonably perform the work. After a public hearing, if a building is found to be in violation of this article, the building and standards commission may:

(1) Enter on the minutes its findings that the building, or use thereof:

a. Is in violation of the minimum standards of this article in specified instances;

b. Is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;

c. Is structurally sound but is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;

d. Is structurally sound, boarded up, fenced, or secured but constitutes a danger to the public, or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building by vagrants, children, or other uninvited persons;

e. Violates the minimum standards of this article and is unoccupied or is occupied only by persons who do not have a right of possession; or

f. Is dangerously damaged or deteriorated or is likely to endanger persons or property.

(2) Make an order that:

a. The building be secured from unauthorized entry;

b. The building be repaired, removed or demolished;

c. The building be vacated in whole or in part;

d. Any or all occupants be relocated;

e. Such other requirements deemed reasonably necessary, including the abatement of any nuisances caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects, and rodents.

(3) Time limits.

a. An order shall require that a building shall be secured within 30 days.

b. An order shall require that a building must be repaired, removed or demolished within 30 days unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

c. If the building and standards commission allows the owner, lienholder, mortgagee, manager or occupant more than 30 days to repair, remove or demolish the building, the building and standards commission shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, mortgagee, manager or occupant to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

d. The building and standards commission may not allow the owner, lienholder, mortgagee, manager or occupant more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order of the building and standards commission unless the owner, lienholder, mortgagee, manager or occupant:

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

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

e. If the building and standards commission allows the owner, lienholder, mortgagee, manager or occupant more than 90 days to complete any part of the work required to repair, remove or demolish the building, the building and standards commission

shall require the owner, lienholder, mortgagee, manager or occupant to regularly submit progress reports to the building and standards commission to demonstrate that the owner, lienholder, mortgagee, manager or occupant complied with the time schedules established by the building and standards commission for commencement and performance of the work. The order may require that the owner, lienholder, mortgagee, manager or occupant appear before the hearing panel to demonstrate compliance with the schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceed $100,000.00 in total value, the commission may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing the building/structure. In lieu of a bond, the commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or guaranty from a third party approved by the commission.

f. In a public hearing to determine whether a building complies with the standards set out in this article, the owner, lienholder, mortgagee, manager or occupant has the burden of proof to demonstrate the scope of work that may be required to comply with this article and the time it will take to reasonably perform the work.

g. Should an owner fail to comply with an order of the building and standards commission to repair, remove or demolish a building, the commission may assess civil penalties against such owner upon notice and hearing. Such notice shall be given at least ten days prior to the hearing to determine whether or not civil penalties should be assessed.

(Code 2005, § 14-328; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-329. Procedure after hearing.

After the hearing before the building and standards commission, the city shall deliver a copy of the order by personal delivery or by certified mail, return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property and to any lienholder or mortgagee of record of the affected property. Within ten days after the date the order from the building and standards commission is issued the city will:

(1) File a copy of the order in the office of the city secretary; and

(2) Publish in the city's official newspaper 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 hearing or order; and

d. Instructions stating where a complete copy of the order may be obtained.

(Code 2005, § 14-329; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-330. Enforcement; expenses.

(a) If an owner does not take the action ordered by the building and standards commission within the allotted time the code enforcement official shall promptly mail by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building not previously served with the order.

(b) If the owner, lienholder, mortgagee, manager or occupant should fail to comply with an order of the building and standards commission within the allotted time, the building and

standards commission may, in addition to any other actions or remedies in this article, authorize the city to:

(1) Vacate, secure, remove or demolish the building.

(2) Relocate the occupants at its own expense.

(3) Repair the building to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with ten or fewer dwelling units.

(c) The building and standards commission may authorize the code enforcement official to secure a building that violates the minimum standards and is unoccupied or is occupied only by persons who do not have a right of possession before notice and hearing.

(d) The building and standards commission may assess all expenses incurred by the city pursuant to the foregoing provisions against the owner of the property and the property. Said assessment of expenses shall constitute a privileged lien on the property subordinate only to tax liens and previously recorded bona fide mortgage liens, unless the property is homestead protected by the state Constitution in accordance with V.T.C.A., Local Government Code chs. 214 and 54.

(e) The building and standards commission, by order, may assess and recover a civil penalty against the property owner in an amount not to exceed $1,000.00 per 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 per day for each violation, if the city proves:

(1) The property owner was notified of the requirements of this article and the owner's need to comply with the requirements; and

(2) After notification, the property owner committed an act in violation of this article or failed to take an action necessary for compliance with this article.

(f) The city council hereby finds and declares that the general administrative expenses of inspecting buildings, conducting hearings, issuing notices and orders, together with associated administrative functions, require the reasonable charge of $400.00 for each lot, adjacent lots under common ownership or tract of land. Such minimum charge is hereby established and declared to be the charge for such administrative expenses to be assessed in each instance where the building and standards commission determines that the building or structure is a dangerous building and the city has been required to proceed with notice and hearing as provided for in section 14-324, together with any additional charges as delineated in subsection (g) of this section. Notwithstanding any tabulation of recorded costs, a charge of $400.00 is hereby expressly stated to be the minimum charge, unless otherwise determined by the building and standards commission due to the associated costs incurred by the city for reviewing records of ownership, liens, and providing notice and hearing. Further, the cost of securing, repairing, demolishing the building or buildings, either by the city or by persons doing so under contract with the city, shall be separately calculated and assessed in each instance where the city secures, repairs, demolishes or causes the demolition of a building or buildings pursuant to this article.

(g) Any case referred to the building and standards commission for consideration shall also have attached as costs all expenses incurred by the city to research ownership and mortgagee/lienholder interests, as such research is required by state law to fix enforceable orders and liens. The city shall certify all administrative expenses and costs of securing, repairing, or demolishing a building or buildings by the city or by persons doing so under contract with the city, as a charge which shall be assessed the owner thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of ten percent per annum until paid. The amount of the assessment shall be subject to the same procedure and sale in case of delinquency as provided by the laws of the state.

(h) If an order has been issued pursuant to this article for the repair, securing or demolition of a building or buildings and the city has let a contract for such work, and the building or buildings are subsequently repaired, secured or demolished by the owners prior to completion of the contracts let by the city, the administrative expenses and all costs for cancellation of the contract shall be certified as a charge which shall be assessed against the owners thereof, and which shall constitute a lien on the land on which the building or buildings are or were situated. Such charge shall bear interest at the rate of ten percent per annum until paid.

(i) Upon a finding by the building and standards commission that a building is dangerously damaged or deteriorated, or is likely to endanger persons or property, the code enforcement official may place a placard notice on all dwelling units which the building and standards commission has determined to be dangerously damaged or deteriorated, or likely to endanger persons or property, with the following language:

DO NOT ENTER

UNSAFE TO OCCUPY IT IS A MISDEMEANOR TO OCCUPY THIS BUILDING, OR TO REMOVE OR DEFACE THIS NOTICE.

BUILDING OFFICIAL

CITY OF FRIENDSWOOD, TEXAS

(Code 2005, § 14-330; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-331. Offenses.

It is unlawful for the owner, occupant, lessee or manager of a building governed by this article to:

(1) Permit a building to be in violation of any provision of this article;

(2) Permit a building to exist in a dilapidated or substandard condition, or condition unfit for human habitation and a hazard to the public health, safety, and welfare;

(3) Permit a building to be unoccupied and unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children;

(4) Permit a building that is boarded up, fenced or otherwise secured to:

a. Constitute a danger to the public; or

b. Have inadequate means to secure the building from unauthorized entry or use;

(5) Permit a building to be occupied only by persons who do not have a right of possession and violate any provision of this article;

(6) Permit a building to exist in a dangerously damaged or deteriorated condition or in a condition likely to endanger persons or property;

(7) Without authority from the code enforcement official or the fire marshal, to remove or destroy a placard placed pursuant to section 14-330(i) by such officials; or

(8) Permit a person to occupy a building or room on which the code enforcement official or the fire marshal has placed a placard pursuant to section 14-330(i), or occupy a building or room on which the code enforcement official or the fire marshal has placed such a placard, absent express authorization of the subject official.

(Code 2005, § 14-331; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-332. Demolition regulations extended to cover site clearance, leveling and grading.

(a) In addition to the building regulations contained in this article, the regulations concerning the demolition of buildings and permits therefore are extended to cover and include related health, safety, and welfare requirements that:

(1) All debris must be removed from the property, all holes or depressions in the ground must be filled to grade level.

(2) The grading and leveling and clearance of the site of the demolition where the removal of structures makes such grading, leveling or clearance necessary, or where such grading, leveling or clearance is necessary to protect adjacent property for the public safety. The grading and leveling shall include appropriate fill to ensure proper drainage, and a permit shall be secured for any fill work if provided by this Code.

(3) All lumber, pipes and all other building materials must be removed from the property.

(4) All pipes and conduits must be removed from above grade and must be removed or sealed below grade.

(5) All piers, pilings, steps, foundations, and other appurtenances must be removed from the property.

(b) Each person having an interest in the building or control over the property on which the building stood prior to removal or demolition is individually responsible for completing this work.

(Code 2005, § 14-332; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-333. Disconnecting public utilities.

The code enforcement official may request that public utilities be disconnected in order that demolition or other nuisance abatement actions may be accomplished without delay in those cases where the structure is open, vacant, dilapidated, or subject to any of the conditions defining public nuisance in this article.

(Code 2005, § 14-333; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-334. Building and standards commission other remedies; V.T.C.A., Local Government Code chs. 54, 214 and 342.

(a) Nothing in this article shall preclude the city's pursuit of any and all other remedies allowed under civil and criminal law, or in equity, to address conditions which are treated in this article, under the theory of public nuisance and the abatement of dangerous buildings or structures. Neither shall the city be required, nor prohibited, to issue criminal citations before, after, or during any proceeding prescribed in this article.

(b) Specifically, in addition to the provisions in this article and remedies afforded under V.T.C.A., Local Government Code ch. 54, Municipal Regulation of Structures, the city further asserts full authority to exercise its right to remedy under all provisions of the V.T.C.A., Local Government Code, including, but not limited to, ch. 214, subchapter B, Municipal Health and Safety Ordinances; and V.T.C.A., Local Government Code ch. 342, Municipal Fire Protection, subchapter B, in prosecution of civil suits for enforcement, removal or destruction of buildings and structures, injunctive relief, and civil penalties to remedy conditions of public concern described in this article.

(Code 2005, § 14-334; Ord. No. 2013-28, § 2, 9-9-2013)

Sec. 14-335. Appeal to district court; lien priority.

(a) Any owner, lienholder, or mortgagee of record, aggrieved by an order of the building and standards commission under this article may file in district court a verified petition setting forth

that the decision is illegal, in whole or part, and specifying the grounds of the illegality. The petition must be filed within 30 calendar days after the respective dates a copy of the final decision of the building and standards commission is mailed to them by first class mail, certified return receipt requested, or such decision shall become final as to each of them upon expiration of each such 30-calendar-day period.

(b) In any judicial contest challenging the city's rights under this article, the city shall pursue recovery of its attorney's fees as allowed by the Texas Local Government Code.

(c) An aggrieved party's appeal to the district court from an order of the building and standards commission shall, to the extent permitted by the law, be limited to reversing or affirming, in whole or part, the building and standards commission's decision. Accordingly, costs may not be allowed against the city.

(d) The lien securing payment of civil penalties or the costs of repairs, removal, or demolition, as the case may be, is inferior only to any previously and duly recorded bona fide mortgage liens, as prescribed by state law. The city's lien is superior to all other previously recorded judgment liens, and shall accrue interest at the rate of ten percent a year, or as allowed by law, from the date of assessment until paid in full.

(Code 2005, § 14-335; Ord. No. 2013-28, § 2, 9-9-2013)

Secs. 14-336--14-355. Reserved.

ARTICLE VIII. SWIMMING POOLS*

***State law reference**—Municipal authority concerning swimming pool enclosures, V.T.C.A., Local Government Code § 214.101; standards for public pools and spas, 25 Tex. Admin. Code § 265.181 et seq.

Sec. 14-356. Barrier requirements.

Every person in possession of land within the city, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool shall at all times maintain upon the lot or premises on which the swimming pool is located, and completely surrounding the swimming pool, lot or premises, a fence, wall or other solid structure designed to comply with the requirements of Appendix G of the 2012 International Residential Code for One- and Two-Family Dwellings.

(Code 1974, § 9-7; Code 1994, § 14-331; Code 2005, § 14-356; Ord. No. 2005-03, § 42, 1-17-2005; Ord. No. 2010-8, § 7, 4-19-2010; Ord. No. 2016-21, § 7, 5-2-2016)

Sec. 14-357. Plans to show compliance.

All plans submitted to the city for swimming pools to be constructed shall show compliance with the requirements of section 14-356, and the final inspection and approval of all pools constructed shall be withheld until all requirements of such section shall have been complied with by the owner, purchaser under contract, lessee, tenant or licensee.

(Code 1974, § 9-8; Code 1994, § 14-332; Code 2005, § 14-357)

Secs. 14-358--14-387. Reserved.

ARTICLE IX. MISCELLANEOUS CODES*

***State law reference**—Home rule municipality may require buildings to comply with energy conservation standards, V.T.C.A., Local Government Code § 214.901; International Residential Code, V.T.C.A., Local Government Code § 214.212.

Sec. 14-388. International Energy Conservation Code adopted.

The 2012 Edition of the International Energy Conservation Code, as published by the International Code Council, Inc., a copy of which has been filed with the city secretary, is hereby adopted and made a part of this article.

(Code 1994, § 14-361; Code 2005, § 14-420; Ord. No. 2002-19, § 19, 11-18-2002; Ord. No. 2005-03, § 41, 1-17-2005; Ord. No. 2010-08, § 8, 4-19-2010; Ord. No. 2016-21, § 9(14-420), 5-2-2016)

Sec. 14-389. International Residential Code for One- and Two-Family Dwellings adopted.

(a) The International Residential Code for One- and Two-Family Dwellings, 2012 Edition, including all appendices, as published by the International Code Council, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this article.

(b) The 2012 Edition of the International Residential Code for One- and Two-Family Dwellings is hereby amended as follows:

Section E3406.3, Minimum size of conductors, of the International Residential Code is hereby deleted and replaced with the following:

> E3406.3. *Minimum size of conductors.* The minimum size of conductors for feeders and branch circuits shall be No. 12 copper. The minimum size of service conductors shall be as specified in Chapter 37. The minimum size of Class 2 remote control, signaling and power-limited circuits conductors shall be as specified in chapter 43.

Section E3601.6.2, Service disconnect location, of the International Residential Code is hereby deleted and replaced with the following:

> E3601.6.2. *Service disconnect location.* The service disconnecting means shall be installed at a readily accessible location outside of a building nearest the point of entrance of the service conductors. Service disconnecting means shall not be installed in bathrooms. Each occupant shall have access to the disconnect serving the dwelling unit in which they reside.

(Code 1994, § 14-363; Code 2005, § 14-422; Ord. No. 2002-19, § 19, 11-18-2002; Ord. No. 2010-08, § 8, 4-19-2010; Ord. No. 2016-21, § 9(14-422), 5-2-2016)

Chapters 15--17

RESERVED

Chapter 18

BUSINESSES*

***State law reference**—Authority, V.T.C.A., Local Government Code § 215.002 et seq.; home rule municipality may license any lawful business subject to police power, V.T.C.A., Local Government Code § 215.075.

ARTICLE I. IN GENERAL

Secs. 18-1--18-18. Reserved.

ARTICLE II. PEDDLERS, SOLICITORS, CANVASSERS, ITINERANT VENDORS*

***State law reference**—Authority to regulate hawkers and peddlers, V.T.C.A., Local Government Code § 215.031; regulation of sales and solicitation, V.T.C.A., Occupations Code ch. 1801 et seq.

DIVISION 1. GENERALLY

Sec. 18-19. 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:

Commodities, goods or *merchandise* means personal property of any nature whatsoever.

Crime involving moral turpitude means a conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation, the determination of which shall be made in accordance with V.T.C.A., Government Code § 411.122.

Itinerant vendor means any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in a business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale, or for the purpose of taking orders for the sale thereof, who displays, exhibits, sells, or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or who temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure, or vacant lot in the city upon which such business is to be operated or conducted. The term "itinerant vendor" shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Peddler means any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in the business in the city of selling, offering for sale, or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made at the time of sale. Collection of the sales price at time of sale or later is immaterial. The term "peddler" shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Religious, civic, or charitable solicitation means the seeking of support or contributions for political, religious, charitable or civic causes, including, without limitation, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

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

Solicitor or *canvasser* means any individual, firm, organization or corporation, as well as its representatives, agents and employees, who engages in the business in the city of taking orders for future delivery of commodities or services, or solicits subscriptions, orders, contributions, or any kind of support, for remuneration or gain, from house to house or from place to place. The term "solicitor" or "canvasser" shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

Temporary business means the business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of 90 days. Definite arrangements would include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

(Code 1974, § 11-14; Code 1994, § 18-76; Code 2005, § 18-19; Ord. No. 91-6, § 2, 3-18-1991; Ord. No. 2005-02, § 1, 12-6-2004)

Sec. 18-20. Exemptions from article.

(a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.

(b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.

(c) Persons conducting religious, civic, or charitable solicitations are exempt from the provisions of this article.

(Code 1974, § 11-15; Code 1994, § 18-77; Code 2005, § 18-20; Ord. No. 91-6, § 3, 3-18-1991; Ord. No. 2005-02, § 2, 12-6-2004)

Sec. 18-21. Unlawful conduct.

It shall be unlawful for any peddler, solicitor, canvasser or itinerant vendor to:

(1) Conduct a business or related activities in the city without a valid registration certificate, as provided in this article.

(2) Conduct a business or related activities in the city without a valid identification card, as provided in this article.

(3) Conduct a business or related activities without visibly displaying the identification card issued to that individual.

(4) Alter a registration certificate or identification card issued by the city.

(5) Conduct a business or related activities within the city after the expiration of the registration certificate issued by the city.

(6) Conduct a business or related activities within the city different than described in the registration statement required by section 18-48.

(7) Provide false, inaccurate or misleading information in the registration statement.

(8) Use a vehicle in the conduct of a business or related activities not identified in the registration statement.

(9) Conduct a business from a location within the city not listed in the registration statement.

(10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise or services not listed and described in the registration statement.

(11) Sell, assign or transfer, or attempt to sell, assign or transfer, a registration certificate or identification card.

(12) Conduct a business authorized under a registration certificate issued pursuant to this article, on any public sidewalk, public street right-of-way, or other public property within the city, without written authorization from the city.

(13) Conduct a business during hours other than those permitted by this article.

(14) Conduct any activity for which a registration is required by this article at any building or dwelling, or upon any lot, tract or parcel of land, upon which is located, in a conspicuous location, any sign which gives notice that peddlers, solicitors, canvassers or itinerant vendors are prohibited. For the purpose of this section, any sign containing the words "no solicitors," "no solicitation," "solicitors prohibited," or any other phrase of similar meaning, shall constitute notice that peddlers, solicitors, canvassers and itinerant vendors are prohibited at such location.

(Code 1974, § 11-16; Code 1994, § 18-78; Code 2005, § 18-21; Ord. No. 91-6, § 4, 3-8-1991)

Secs. 18-22--18-47. Reserved.

DIVISION 2. REGISTRATION

Sec. 18-48. Application.

(a) Prior to commencement of business and related activities by any peddler, solicitor, canvasser or itinerant vendor, a registration statement shall be completed on a form provided by the chief of police for that purpose, stating the following:

(1) Name of applicant (person who completes the registration statement).

(2) Height, weight, sex and hair color of applicant.

(3) A recent color or black and white photograph of the applicant, no larger than two inches by two inches.

(4) Social security number of applicant.

(5) Permanent home address, and local address, if different. Also, the primary e-mail address.

(6) Applicant's driver's license number and state of issuance.

(7) Name of individual, firm, company or organization represented, if any, and the permanent address and local address of any individual, firm, company or organization represented. Also, the primary e-mail address.

(8) The last four communities in which business was conducted by the individual, firm, company or organization represented shall be listed, with the period (beginning and ending month/year) business was conducted in each community listed.

(9) The following information:

a. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of this state, the corporation shall provide a certified copy of the charter or articles of incorporation; or

b. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of a state other than this state, the corporation shall provide a certified copy of its certificate of authority to do business in this state.

(10) Description, vehicle license number, and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.

(11) The name, height, weight, sex, hair color, social security number, permanent home address, primary e-mail address and driver's license number and state of issuance for each individual who will be involved in business under the registration certificate. If an individual has no driver's license, other identification shall be provided.

(12) A recent color or black and white photograph of each individual who is listed by the applicant, no larger than two inches by two inches.

(13) A description of the business and related activities to be conducted.

(14) Character and description of commodities, goods, merchandise or services to be offered for sale.

(15) Location or locations from which the business and other activities will be conducted.

(16) The term or period during which the business and activities will be conducted, not to exceed 180 days. Upon expiration of the 180-day period, or shorter period indicated by the applicant on the permit registration statement, the applicant must complete a new registration statement, in accordance with the requirements of this division, if renewal is desired.

(b) Every registration statement shall be accompanied by a registration fee set by resolution and printed in Appendix D to this Code to compensate the city for the cost of administration of this division. A fee set by resolution and printed in Appendix D to this Code shall be charged for replacement of a registration certificate.

(Code 1974, § 11-17(a)(1)--(9), (11)--(14), (17), (b); Code 1994, § 18-91; Code 2005, § 18-48)

Sec. 18-49. Identification of applicant, etc.

Prior to issuance of the registration certificate and identification cards provided for in this division, each individual whose name is listed on the registration certificate by the applicant shall present his driver's license or other identification in person to the chief of police for verification of the information provided by the applicant.

(Code 1974, § 11-17(a)(10); Code 1994, § 18-92; Code 2005, § 18-49)

Sec. 18-50. Statement of felony, etc.; convictions.

(a) Prior to issuance of the registration certificate and identification cards provided for in this division, the applicant and each individual whose name is listed by the applicant shall answer on the registration statement, or on an attachment thereto, whether he has ever been convicted of a felony or a misdemeanor involving moral turpitude.

(b) Prior to issuance of the registration certificate and identification cards provided for in this division, the applicant and each individual whose name is listed by the applicant shall, on the registration statement or attachment thereto, separately list and explain the nature of each and every conviction, if any, whether for felony or misdemeanor offenses, other than conviction for misdemeanor traffic law offenses, and give the state where the conviction occurred and the year of such conviction.

(Code 1974, § 11-17(a)(15), (16); Code 1994, § 18-93; Code 2005, § 18-50)

Sec. 18-51. Issuance of registration certificate.

(a) When all prerequisites of this division have been complied with, the chief of police shall initiate appropriate action to process the application. The chief of police shall make an appropriate investigation of an applicant, any person listed by the applicant, and any information provided. The chief of police shall verify the information on the registration statement regarding the driver's license from the applicant's driver's license. If the applicant has no driver's license, other identification shall be provided.

(b) The chief of police shall issue a registration certificate to the applicant authorizing the sale, offer for sale, taking of orders for sale, and exhibition of commodities, goods, merchandise and services within 15 working days after the applicant has fully complied with all applicable

provisions of this division, subject to denial of the registration certificate or identification card as outlined in section 18-57.

(Code 1974, §§ 11-17(a)(6), 11-18(a); Code 1994, § 18-94; Code 2005, § 18-51)

Sec. 18-52. Duration; renewal.

The registration certificate shall state the effective term, and the beginning and ending dates, not to exceed 180 days. Upon expiration, the registration certificate may be renewed upon full compliance with the requirements of this division.

(Code 1974, § 11-18(b); Code 1994, § 18-95; Code 2005, § 18-52)

Sec. 18-53. Transfer prohibited.

A registration certificate issued under the terms of this division shall be personal to the applicant and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of a registration certificate shall be grounds for revocation of the registration certificate.

(Code 1974, § 11-18(c); Code 1994, § 18-96; Code 2005, § 18-53)

Sec. 18-54. Identification cards.

(a) In conjunction with the issuance of a registration certificate, the chief of police shall issue identification cards for each individual whose name is listed in the registration statement. The identification card shall be laminated in clear plastic, shall have a metal clothing clip, shall contain the photograph of the holder, and shall state the holder's name, driver's license number and state of issuance, and height, weight, sex and hair color of the cardholder, the term of the permit, and the nature of the business and related activities. The card shall contain the following disclaimer of any endorsement by the city, to be placed in a conspicuous place upon such card: "The City of Friendswood, Texas, does not endorse the product, service or activity promoted by this cardholder."

(b) An identification card issued in accordance with this division shall be personal to the cardholder and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued thereunder.

(c) The chief of police shall issue up to five identification cards with the registration certificate without any additional or replacement identification cards upon payment to the city of a fee as set by resolution and printed in Appendix D to this Code.

(Code 1974, § 11-19; Code 1994, § 18-97; Code 2005, § 18-54)

Sec. 18-55. Display of identification card.

While conducting business covered by the registration certificate, each identification card holder shall visibly display the identification card for identification by clipping the identification card to the clothing of the holder, so that the identification card is in plain view.

(Code 1974, § 11-20; Code 1994, § 18-98; Code 2005, § 18-55)

Sec. 18-56. Inspection.

A representative of the city designated by the chief of police shall have the authority to request admission to inspect, at a reasonable time without advance notice, a business operating under a registration certificate issued pursuant to this division, to determine whether the permit holder's business and related activities are as represented in the registration statement. If such admission is denied, or if the chief of police deems it advisable, the chief of police shall have the

authority to obtain a warrant, in accordance with applicable law, for the purpose of allowing the inspection.

(Code 1974, § 11-21; Code 1994, § 18-99; Code 2005, § 18-56)

Sec. 18-57. Denial of registration certificate or identification card to specified individuals.

(a) The issuance of a registration certificate may be denied if:

(1) Any violation of this division or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for has been committed by any individual or individuals who would operate under such registration certificate;

(2) False, inaccurate, incomplete or misleading information is contained in the registration statement; or

(3) The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed against him.

(b) Conviction of a felony or crime involving moral turpitude shall be grounds for the denial of issuance to that individual of an identification card, and/or the removal from the registration statement on file with the city of any such person so convicted, and/or the denial of the right to conduct the business covered by such certificate by any person so convicted.

(c) Notice of a denial of a registration certificate or denial of an identification card to any individual shall be given in writing, specifically setting forth the reason for such denial and what action will be required before a registration certificate can be issued. Such notice shall be served in person, or by depositing the notice in the United States Mail, addressed to the applicant's local address, if provided, or to the permanent business or home address listed on the registration statement.

(Code 1974, § 11-22; Code 1994, § 18-100; Code 2005, § 18-57; Ord. No. 91-6, § 5, 3-8-1991)

State law reference—Limitations on denying, revoking, etc., licenses, V.T.C.A., Occupations Code § 53.001 et seq.

Sec. 18-58. Hours.

Business conducted in accordance with this division shall be permitted only between the hours of 9:00 a.m. and 9:00 p.m.

(Code 1974, § 11-23; Code 1994, § 18-101; Code 2005, § 18-58; Ord. No. 91-6, § 6, 3-8-1991)

Sec. 18-59. Revocation of certificate.

(a) The city may revoke a registration certificate if:

(1) Any violation of this division, or any violation of other city ordinances or laws relating to the business or related activities covered by the registration certificate is committed by any individual or individuals operating under the registration certificate during the original term or renewal thereof;

(2) False, inaccurate, incomplete or misleading information is contained in the registration statement; or

(3) Any certificate holder is convicted of a crime involving moral turpitude.

(b) If a certificate is revoked pursuant to this section, the period of revocation shall extend until the date the certificate so revoked would have otherwise expired. Any itinerant vendor, peddler, solicitor or canvasser having two certificates revoked within any 24-month period shall be ineligible to receive a certificate for a period of one year following the date of the second revocation.

(Code 1974, § 11-24; Code 1994, § 18-102; Code 2005, § 18-59; Ord. No. 91-6, § 7, 3-8-1991)

Sec. 18-60. Appeal of denial or revocation of registration certificate or identification card.

An applicant or other individual who has been denied a registration certificate or identification card, or who has had a registration certificate revoked, may appeal that action to the city council by submitting a letter to the city secretary's office within ten days of the action complained of. A hearing on the denial will be scheduled for the next regular city council meeting. The city council will render its decision on the appeal at the meeting during which the appeal is considered.

(Code 1974, § 11-25; Code 1994, § 18-103; Code 2005, § 18-60)

Chapters 19--21

RESERVED

Chapter 22

CIVIL EMERGENCIES*

***State law reference—**Emergency Management, V.T.C.A., Government Code § 418.001 et seq.; false reports of emergencies, V.T.C.A., Penal Code § 42.06; interference at scene of emergency, V.T.C.A., Penal Code § 38.15; tampering, etc., with emergency equipment, V.T.C.A., Penal Code § 28.03.

ARTICLE I. IN GENERAL

Sec. 22-1. 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:

Authorized person means a person directed or commissioned by any official or body of officials to act in a given capacity.

Emergency means any fire, explosion, accident, riot, natural or manmade disaster, crime or suspected crime.

Emergency vehicle means any vehicle owned or being used by a city, county, state, federal agency or volunteer fire department responding to any emergency and designating or displaying by siren, lights or other signs that it is such a vehicle.

Unauthorized person means any person not an authorized person as defined in this section.

(Code 1974, § 5-1; Code 1994, § 22-1; Code 2005, § 22-1)

Sec. 22-2. Unauthorized use of emergency apparatus.

It shall be unlawful for any unauthorized person to operate any emergency apparatus of the police department, fire department or other official or officially recognized emergency organization.

(Code 1974, § 5-5; Code 1994, § 22-2; Code 2005, § 22-2)

State law reference—Criminal mischief, V.T.C.A., Penal Code § 28.03.

Secs. 22-3--22-22. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT*

***State law reference—**Emergency management, V.T.C.A., Government Code § 418.001 et seq.; municipal programs, V.T.C.A., Government Code § 418.103; local planning required, 37 Tex. Admin. Code § 7.12; local government responsibility, 37 Tex. Admin. Code § 7.23; requesting state assistance, 37 Tex. Admin. Code § 7.24; local government control affirmed, 37 Tex. Admin. Code § 7.26; relating to emergency management, Executive Order RP 32 (January 28, 2004).

Sec. 22-23. Exemption from liability for damages resulting from activities promulgated by this article.

(a) *City.* 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 results of such activity.

(b) *Individual.* Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack shall, together with his successors in interest, if any, not be civilly liable for the death of or injury to any

persons 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 1974, § 5-30; Code 1994, § 22-26; Code 2005, § 22-23)

Sec. 22-24. Authority to participate in countywide emergency management plan.

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in the county in the formation of an emergency management council for the county and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as such program may affect the city.

(Code 1974, § 5-27; Code 1994, § 22-28; Code 2005, § 22-25)

Sec. 22-25. Emergency management director.

(a) *Office created.* There exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law.

(b) *Responsibilities generally.* The emergency management director shall be responsible for conducting a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in subsection (d) of this section. He may delegate authority for execution of these duties to the emergency management coordinator, but ultimate responsibility for such execution shall remain with the director.

(c) *Powers and duties generally.* The powers and duties of the emergency management director shall include an ongoing survey of actual or potential major hazards which threaten life and property within the city, and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur. As part of his responsibility in hazard mitigation, the director shall supervise the development of an emergency management plan for the city and shall recommend that plan for adoption by the city council along with any and all mutual aid plans and agreements which are deemed essential for the implementation of such emergency plan. The powers of the director shall include the authority to declare a state of disaster, but such action may be subject to confirmation by the city council at its next meeting. The duties of the director shall also include the causing of a survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for in this article, as well as a continuing study of the need for amendments and improvements in the emergency management plan.

(d) *Duties and responsibilities enumerated.* The duties and responsibilities of the emergency management director shall include the following:

(1) The direction and control of the actual disaster operations of the city emergency management organizations as well as the training of emergency management personnel.

(2) The determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(3) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal or other emergency management organizations.

(4) The marshaling, after declaration of a disaster as provided for in subsection (c) of this section, 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.

(5) The issuance of all necessary proclamations as to the existence of a disaster and immediate operational effectiveness of the city emergency management plan.

(6) The issuance of reasonable rules, regulations or directives which are necessary for the protection of life and property in the city. Such rules and regulations shall be filed in the office of the city secretary and shall receive widespread publicity unless publicity would be of aid and comfort to the enemy.

(7) The 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 such county for the countywide coordination of emergency management efforts.

(8) The 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.

(9) The authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(Code 1974, § 5-25; Code 1994, § 22-29; Code 2005, § 22-26)

Sec. 22-26. Emergency management coordinator.

An emergency management coordinator may be appointed by and serve at the pleasure of the emergency management director.

(Code 1974, § 5-26; Code 1994, § 22-30; Code 2005, § 22-27)

Sec. 22-27. Organization.

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the emergency management director in the emergency management plan, as well as all 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. Such plan shall set forth the form of the organization; establish and designate divisions and functions; assign tasks, duties and powers; and designate officers and employees to carry out the provisions of this article. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the state division of emergency management and of the federal government.

(Code 1974, § 5-28; Code 1994, § 22-31; Code 2005, § 22-28)

Sec. 22-28. Orders, rules and regulations to supersede existing ordinances.

(a) 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.

(b) This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.

(Code 1974, § 5-29; Code 1994, § 22-32; Code 2005, § 22-29)

Sec. 22-29. Expenditure of public 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.

(Code 1974, § 5-31; Code 1994, § 22-33; Code 2005, § 22-30)

Sec. 22-30. Oath of personnel assigned functions or responsibilities.

Each employee or any individual that is assigned a function or responsibility under this article shall solemnly swear or affirm to support and defend the Constitution of the United States, laws of the state and the ordinances of the city.

(Code 1974, § 5-34; Code 1994, § 22-34; Code 2005, § 22-31)

Sec. 22-31. Obstruction of emergency management personnel prohibited.

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

(Code 1974, § 5-32; Code 1994, § 22-35; Code 2005, § 22-32)

Sec. 22-32. Impersonating emergency management personnel prohibited.

It shall 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.

(Code 1974, § 5-33; Code 1994, § 22-36; Code 2005, § 22-33)

Sec. 22-33. Simulation of warning signals.

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.

(Code 1974, § 5-35; Code 1994, § 22-37; Code 2005, § 22-34)

Secs. 22-34--22-56. Reserved.

ARTICLE III. ASSISTANCE TO COUNTIES AND OTHER CITIES*

***State law reference—**Law enforcement assistance in civil emergencies, V.T.C.A., Local Government Code § 362.001 et seq.

Sec. 22-57. Interlocal agreement adopted.

The city hereby adopts in all respects the provisions of V.T.C.A., Local Government Code § 362.001 et seq., regarding law enforcement officers interlocal assistance.

(Code 1974, § 5-9; Code 1994, § 22-61; Code 2005, § 22-57)

Sec. 22-58. Authority of city officials to furnish assistance.

The city, acting by and through its mayor, mayor pro tem or, in their absence or inability to act, the city manager, may send or direct any of its regularly employed law enforcement officers to assist any county or other municipality, when a request is received for assistance from the mayor or other officer authorized to declare a state of civil emergency in such other municipality or county, representing that there exists in such county or other municipality a need for additional law enforcement officers to protect the health, life and property of such county or other municipality and its inhabitants, and the visitors thereof, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat by three or more persons acting together or without lawful authority, or during a time of natural or manmade calamity.

(Code 1974, § 5-10; Code 1994, § 22-62; Code 2005, § 22-58)

State law reference—Similar provisions, V.T.C.A., Local Government Code § 362.002.

Sec. 22-59. Rights and duties of officers.

When law enforcement officers of the city are sent to another municipality or a county, they shall be in all things subject to the provisions of the state law adopted by section 22-57. Such officer shall be considered a peace officer of the county or other municipality under the command of the law enforcement officer therein who is in charge in that municipality or county and, as provided by such state law, shall be vested with all the powers of a regular law enforcement officer in the county or other municipality. Such law enforcement officers of the city shall be considered under the terms of such state law and shall be entitled to the same wage, salary, pension and all other compensations while performing police duties outside of the territorial limits of the city as though the same services were being rendered in the city. The city shall pay to the officers such wages, salary, pension and other benefits, together with medical, travel, food, lodging and other expenses incurred on account of performing services outside of the territorial limits of the city, and the city shall be reimbursed by the county or other municipality requesting the services out of which such payments and expenses arose, as is provided by state law.

(Code 1974, § 5-11; Code 1994, § 22-63; Code 2005, § 22-59)

State law reference—Similar provisions, V.T.C.A., Local Government Code § 362.003.

Secs. 22-60--22-76. Reserved.

ARTICLE IV. PRICE CONTROL MEASURES*

***State law reference—**Price controls in local emergency plans, V.T.C.A., Government Code § 418.106.

Sec. 22-77. Exceeding prevailing prices prohibited.

It shall be unlawful for any vendor, merchant, or other person selling or offering for sale, whether retail or wholesale, goods or services at a rate or price in excess of the rates or prices prevailing in the city, during the duration of a state of emergency or subsequent recovery period in which the county or the city has been declared a disaster area.

(Code 1994, § 22-81; Code 2005, § 22-77; Ord. No. 2000-27, § 2, 8-21-2000)

Sec. 22-78. Exceeding prevailing lease rates prohibited.

It shall be unlawful for any property owner, landlord, or other person to lease any building or structure, or part thereof, intended for human habitation, at a rate, price, or term in excess of those rates, prices, or terms which were in effect the week prior to any natural disaster, flood, hurricane, or tropical storm, or declaration of emergency or disaster area of the county or the city.

(Code 1994, § 22-82; Code 2005, § 22-78; Ord. No. 2000-27, § 3, 8-21-2000)

Sec. 22-79. Exception.

This section does not prevent the seller of consumer goods from charging an amount in excess of the average retail price, if such higher price is the direct result of, and limited to, any increased cost for the consumer goods for the manufacturer, distributor, or wholesaler to the seller. In such instances, only the actual cost increase per item from the manufacturer, distributor, or wholesaler can be added to the average retail price.

(Code 2005, § 22-79; Ord. No. 2000-27, § 4, 8-21-2000)

Chapters 23--25

RESERVED

Chapter 26

ENVIRONMENT*

***State law reference**—Sanitation and environmental quality, V.T.C.A., Health and Safety Code ch. 341 et seq.; natural resources, V.T.C.A., Natural Resources Code ch. 1 et seq.; parks and wildlife, V.T.C.A., Parks and Wildlife Code ch. 1 et seq.

ARTICLE I. IN GENERAL

Secs. 26-1--26-18. Reserved.

ARTICLE II. AIR POLLUTION*

***State law reference**—Municipal authority to abate air pollution in a matter consistent with state law and rules of Texas Natural Resource Conservation Commission, V.T.C.A., Health and Safety Code § 382.113.

DIVISION 1. GENERALLY

Secs. 26-19--26-39. Reserved.

DIVISION 2. SMOKING TOBACCO*

***State law reference**—Smoking tobacco in certain public places, V.T.C.A., Penal Code § 48.01.

Sec. 26-40. Smoking in city buildings.

(a) *Prohibition*. It shall be unlawful for any person to be in possession of a burning tobacco product, or to smoke tobacco, in a building owned or leased by the city within the corporate boundaries of such city.

(b) *Defenses to prosecution*.

(1) It is a defense to prosecution under this section that the building in which the offense takes place does not have prominently displayed therein a reasonably sized notice that smoking is prohibited by city ordinance in such building and that an offense is punishable as a misdemeanor.

(2) It is a defense to prosecution under this section that the building in which the offense takes place is not equipped with facilities for extinguishment of smoking materials in a readily accessible location.

(c) *Exception*. It is an exception to this section that the person in possession of the burning tobacco product or smoking the tobacco product does so exclusively within an area designated for smoking tobacco.

(Code 1974, § 2-8; Code 1994, § 26-36; Code 2005, § 26-40)

Secs. 26-41--26-68. Reserved.

ARTICLE III. SANITARY NUISANCES*

***State law reference**—Nuisances, V.T.C.A., Health and Safety Code § 341.011 et seq.; home rule municipal authority to enact more stringent health regulations than those of state, V.T.C.A., Health and Safety Code § 341.081; civil enforcement, V.T.C.A., Health and Safety Code § 341.092; regulation of nuisances by home rule municipality, V.T.C.A., Local Government Code § 217.042; persons not to permit abandoned property to become public health nuisance, V.T.C.A., Health and Safety Code § 341.013(e).

Sec. 26-69. Nuisance defined.

Whatever is dangerous to human life or health, and whatever renders the ground, the water, the air or any food or drink unwholesome and a hazard to human life and health is hereby declared to be a nuisance.

(Code 1974, § 9-1; Code 1994, § 26-56; Code 2005, § 26-69)

Sec. 26-70. Specific conditions.

The conditions listed in this section, in addition to any things or conditions declared elsewhere in this Code to be nuisances, are declared to be nuisances, and as such are to be abated pursuant to section 26-127. The person causing, permitting or suffering any of the conditions listed in this section upon his premises or in any building occupied or controlled by him or in or upon any street, alley, sidewalk or gutter immediately adjacent to such premises shall, upon conviction, be fined for a misdemeanor violation.

(1) Any building, erection or cellar or any part of such building, erection or cellar which is overcrowded, or not provided with adequate means of ingress or egress, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted.

(2) All cellars, vaults, drains, pools, privies, sewers, yards, grounds or premises which have for any cause become foul, noxious, or offensive or injurious to health, or unpleasant to adjacent residences or to persons passing such premises.

(3) All carcasses, all decaying flesh, fish, fowl, fruit or vegetables, all deposits of manure, all flesh of any kind or description whatever, all filthy or offensive water or slops in any private yard or premises, and all other unwholesome substances when thrown upon or conducted into or upon any street, alley, public ground or enclosure in such a manner as to render such substances unwholesome and offensive or liable to become unwholesome or offensive.

(4) All privies that are offensive from use; all markets, cellars, laundries, stores or other buildings or places which are not kept clean and free from filthy and unwholesome substances and odors; all deposits or substances that are offensive or liable to engender disease.

(5) Every trade, business or occupation injurious to the health or comfort of persons who reside in the vicinity, and any can or receptacle containing water or slops suffered to become stagnant or offensive or unwholesome from any cause.

(6) The act of depositing filth or any foul, offensive, noxious or injurious substance upon any sidewalk, street, alley, public thoroughfare or other public place.

(7) The act of sweeping or depositing any trash, paper or rubbish into any street, alley, public thoroughfare or other public place and allowing such trash, paper or rubbish to remain in such place longer than six hours.

(8) The act of burning any hair, leather, rags or any other substances of any kind which may cause or produce an offensive smell, smoke or odor capable of annoying persons living in the vicinity or persons passing along the streets, alleys or public thoroughfares.

(9) The act of defecating or urinating upon the streets, alleys or public grounds, or in any place that may be seen from a private residence or by persons passing along the streets, alleys or public thoroughfares.

(10) The act of expectorating or spitting of mucous, or saliva, or saliva mixed with tobacco, or secretions from the nose or air passages, or the remains of any chewed or partly chewed tobacco or snuff, or the remnant of any partially chewed or smoked cigar or cigarette upon any sidewalk, public building or public vehicle, place or building or public resort within the city.

(11) The act of hauling, carrying or transporting any meat or slaughtered or dead animals or fish through the streets of the city without having such meat, slaughtered or dead animals or fish entirely covered, screened and protected from dust and public view.

(12) The act of scattering or distributing any advertisements, circulars, handbills, printed or written announcements, or paper of like character, or any medicines, upon the streets, sidewalks, alleys or within public buildings or grounds within the limits of the city.

(13) The act of the owner or possessor of any animal which has died within the city failing to have the carcass of such animal removed within 18 hours after the death of such animal.

(14) The act of throwing from any opening in, or carrying from, any dwelling or place of abode, any night soil, feces, urine or filthy or unclean water into or upon any alley, street or sidewalk or into or upon adjacent property not owned by the principal.

(15) The act of conducting or causing to be conducted into any alley or gutter of wastewater from any sink or tank or any source of water supply which may produce any pool of stagnant water in such alley or gutter.

(16) The act of dumping upon and removing from a sidewalk, street or alley any coal or like material in a dry state, in such a manner that annoying or offensive dust is generated from such material, or the act of leaving any coal, dust or like material upon any sidewalk, street or alley at or near the place where such coal or material was deposited or from which it was removed.

(17) The act of throwing any glass, tin, plastic ware, crockery or rubbish into or upon any sidewalks, streets, alleys, public thoroughfares, commons, drains or gutters.

(18) Any unwholesome food or liquor, or adulterated medicine, and all cattle, horse or hog pens, stables or enclosed areas in which any cattle, horses or hogs may be kept or confined, which may from use have become offensive.

(19) Any granaries, barns, elevators or other premises where rats are bred or harbored.

(20) Any noxious, foul or putrid liquids, or substances likely to be noxious, foul, offensive or putrid, discharged, placed, thrown or conducted into or upon any street, alley, public ground or common.

(21) The act of wrongfully casting, throwing or depositing any filth, substance or thing into any private or public well or cistern.

(22) The act of erecting or maintaining buildings or structures with roofs or eaves projecting beyond the property line or shedding water upon any property line or shedding water upon any property other than that belonging to the owner of such building or structure.

(23) Any other act or thing done or suffered within the city which may cause interference with the enjoyment by any member of the community, or any person, who may thereby be deprived of his right to be free from offensive or unpleasant odors or vapors, and to breathe fresh air and to be free from the sounds or noises which generally disturb members of the community.

(Code 1974, § 9-2(1)--(9), (11)--(17), (19), (20), (22)--(26); Code 1994, § 26-57; Code 2005, § 26-70)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code §§ 341.011, 341.037; rodent control, V.T.C.A., Health and Safety Code § 341.018; drinking water, V.T.C.A., Health and Safety Code § 341.031.

Sec. 26-71. Notice to abate.

Notice to abate a nuisance described in section 26-70 shall be sent in the same manner as provided in section 26-126.

(Code 1974, § 9-3; Code 1994, § 26-58; Code 2005, § 26-71)

State law reference—Abatement of nuisance, V.T.C.A., Health and Safety Code § 342.006.

Sec. 26-72. Abatement by city.

If the owner receiving notice under section 26-71 to abate a nuisance shall fail or refuse to comply with any of the provisions of section 26-69 or 26-70, the condition shall be abated pursuant to the procedure in section 26-127.

(Code 1974, § 9-3; Code 1994, § 26-59; Code 2005, § 26-72)

State law reference—Abatement of nuisances, V.T.C.A., Health and Safety Code § 342.006 et seq.

Sec. 26-73. Privies.

Privies are prohibited in the city.

(Code 1974, § 9-2(21); Code 1994, § 26-60; Code 2005, § 26-73)

Secs. 26-74--26-104. Reserved.

ARTICLE IV. GRASS, WEEDS, BRUSH, RUBBISH*

***State law reference—**Weeds and unsanitary conditions, V.T.C.A., Health and Safety Code § 342.004.

DIVISION 1. GENERALLY

Sec. 26-105. 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:

Any and all other objectionable, unsightly or unsanitary matter or conditions of whatever nature means and includes all cultivated and uncultivated vegetable growth, objects, matter, and conditions not included within the meaning of the other terms defined in this section, which are liable to produce or tend to produce an unhealthy, unwholesome, unsightly or unsanitary condition to the premises within the general locality where the same are situated, and shall also include any species of ragweed or other vegetable growth which might or may tend to be unhealthy to individuals residing within the general locality of where the same are situated.

Brush means and includes all trees or shrubbery under seven feet in height which are not cultivated or cared for by persons owning or controlling the premises.

Grass or *weeds* means and includes all cultivated and all rank and uncultivated vegetable growth or matter which has grown to more than nine inches in height or which, regardless of height, is liable to become an unwholesome or decaying mass creating an unsanitary condition or a harborage or breeding place for mosquitoes, rodents, or vermin, or other disease-carrying pests. The term "grass" or "weeds" shall be deemed to not include cultivated and uncultivated vegetation on property for which an agricultural exemption has been issued for ad valorem tax purposes by the appraisal district of the county in which such property is located if such cultivated or uncultivated vegetation does not violate section 26-106(b).

Rubbish means and includes all refuse, rejected tin cans, old vessels of all sorts, useless articles, discarded clothing and textiles of all sorts, and in general all non-decayable waste and all other things usually included within the meaning of such term.

(Code 1974, § 8-37; Code 1994, § 26-81; Code 2005, § 26-105; Ord. No. 2006-26, § 1, 11-20-2006; Ord. No. 2010-45, § 2, 1-10-2011)

Sec. 26-106. Public nuisance declared.

(a) Whenever grass, weeds, brush, rubbish and all other objectionable, unsightly and unsanitary matter of whatever nature shall exist, covering or partly covering the surface of any lot or parcel of land situated within the city, or when any such lot or parcel of land, as aforesaid, shall have the surface thereof filled or partly filled with holes or be in such condition that such lot or

parcel of land holds or is liable to hold stagnant water therein, or, if from any other cause, such lot or parcel of land shall be in such condition as to be liable to cause disease or produce, harbor or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome or obnoxious, such lot or parcel of land shall constitute and is hereby declared to constitute a public nuisance. The prompt abatement of such nuisance is hereby declared to be a public necessity. Such lot or parcel of land, in addition to the grounds within its respective boundaries, shall be held to include, but shall not be limited to:

(1) All lots or parcels of land lying and being adjacent to and extending beyond the property line of any such lot or parcel of land to the curbline of adjacent streets where a curbline has been established or to the edge of pavement where no curbline has been established on adjacent streets;

(2) To the center of adjacent unimproved rights-of-way and alleys; and

(3) The area between a fence, wall or barrier and within any abutting drainage channel easement to the top of such channel closest to the property.

(b) With respect to uncultivated agricultural properties or tracts of land that contain no structures used or designed for human occupancy for residential or commercial purposes, a nuisance is not declared until grass and weeds grow to a height greater than 24 inches within 50 feet from any adjacent property under different ownership or from any street right-of-way. However, on cultivated properties where the distance between the growing crop and abutting property under different ownership or from a street right-of-way is less than 50 feet, a nuisance is not declared until grass and weeds grow to a height greater than nine inches.

(c) It is unlawful for any person to permit or allow any weeds, filth or rubbish of any kind to remain on any sidewalk in front of or at the side of any premises owned by such person, or in the street, to the middle of, in front of or at the side of any premises owned or controlled by such person, or upon any alley or drainage easement that may be adjacent to any lots owned or controlled by such person.

(Code 1974, §§ 8-36, 9-2(10); Code 1994, § 26-82; Code 2005, § 26-106; Ord. No. 2010-45, § 3, 1-10-2011)

Secs. 26-107--26-125. Reserved.

DIVISION 2. ABATEMENT

Sec. 26-126. Required; notice to property owner.

(a) Whenever the existence of any nuisance, as described in this division, on any lot or parcel of land situated within the city shall come to the knowledge of the city manager or his/her designee, and the city intends to utilize the subsequent provisions of this division to correct or remove the condition and assess the cost against the property, a notice identifying such property shall be issued to the person owning such property to correct, remedy or remove the condition within ten calendar days after such notice and it shall be unlawful for any person to fail to comply with such notice. The notice shall be given personally to the owner in writing, by letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located, or, if personal service cannot be obtained, then by publication at least one time in a newspaper of general circulation within the city, or by posting the notice on or near the front door of each building on the property to which the violation relates, or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates. The notice shall direct the abatement of such nuisance by a method or methods appropriate for such nuisance and within ten calendar days from the service of such notice. The notice shall further state that, in default of the performance of the conditions required by this section, the city may issue a citation or a series of citations to effect the nuisance abatement, or, at the city's discretion, at once cause the work to be done and pay therefor and

charge the cost and expense incurred in doing or having such work done, or improvements made, to the owner of such property, and fix a lien thereon as provided in this division.

(b) If the city mails a notice to a property owner in accordance with this division, 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.

(c) In a notice provided under this division, the city will include in said notice that if the property owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the property owner's expense and assess the expense against the property. If a violation covered by a notice under this section occurs within the one-year period, and the city has not been informed in writing by the property owner of any ownership changes, then the city without notice may take any action permitted in this section and assess its expenses as hereinafter provided.

(Code 1974, § 8-38; Code 1994, § 26-96; Code 2005, § 26-126; Ord. No. 91-29, § 1, 10-21-1991; Ord. No. 2010-45, § 4, 1-10-2011)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.006 et seq.

Sec. 26-127. Abatement by city.

In the event of the failure, refusal or neglect of the owner or occupant of any premises or property to cause a nuisance to be removed or abated in the manner and within the time provided in section 26-126 after the issuance of a citation or a series of citations, it shall be the duty of the city manager or his/her designee to cause the grass, weeds, brush, rubbish or other unsanitary matter or condition constituting a nuisance to be promptly and similarly abated, in a reasonable and prudent manner, at the expense of the city. The city manager or his/her designee shall carefully compile the cost of such work done and improvements made in abating such nuisance and shall charge such costs against the owner of the premises.

(Code 1974, § 8-39; Code 1994, § 26-97; Code 2005, § 26-127; Ord. No. 2010-45, § 5, 1-10-2011)

Sec. 26-128. Costs of abatement; filing of lien.

The city council hereby finds and declares that the general overhead of administrative expenses incurred from inspecting, locating the owner, issuing notice, issuing citations, reinspecting, ordering work done, and submission of billing, together with all necessary incidents of same, require a reasonable charge set by resolution and printed in Appendix D to this Code for each lot, tract or parcel of land, and such charge is hereby established and declared to be an expense of such work and improvement. In addition, if the city files a lien against such lot, tract or parcel of land to secure payment for such abatement as provided in this division, an additional charge set by resolution and printed in Appendix D to this Code shall be added to reimburse the city for its expense in causing the preparation and filing of such lien, such expense hereby being found and determined by the city council as representing the actual cost to the city in having such service performed.

(Code 1974, § 8-39; Code 1994, § 26-98; Code 2005, § 26-128; Ord. No. 90-30, § 1, 11-5-1990; Ord. No. 2010-45, § 5, 1-10-2011)

Sec. 26-129. Statement of expenses; institution of lien.

(a) The city council may assess expenses incurred under section 26-128 against the real estate on which the work is done or improvements made.

(b) To obtain a lien against the property, the mayor must file a statement of expenses with the county clerk of the county in which the property is located. The lien statement must state the name of the owner, if known, and the legal description of the property. A signature on a lien

statement may be a facsimile signature as defined by V.T.C.A., Government Code § 618.002. The lien attaches upon the filing of the lien statement with the county clerk.

(c) The lien obtained by the city council is security for the expenditures made and interest accruing at the rate of ten percent on the amount due from the date of payment by the city.

(d) The lien is inferior only to:

(1) Tax liens; and

(2) Liens for street improvements.

(e) The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(g) The remedy provided by this section is in addition to the remedy provided for a misdemeanor violation.

(h) The city council may foreclose a lien on property under this division in a proceeding relating to the property brought under V.T.C.A., Tax Code ch. 33, subch. E (V.T.C.A. Tax Code § 33.91 et seq.).

(Code 1974, § 8-39; Code 1994, § 26-99; Code 2005, § 26-129; Ord. No. 2010-45, § 6, 1-10-2011)

State law reference—Similar provisions, V.T.C.A., Health and Safety Code § 342.007.

Sec. 26-130. City may contract for abatement.

The city shall have the right to award any quantity of work authorized under section 26-127 to a general contractor whose bid shall be accepted by the community development department, or if the amount exceeds $50,000.00, by the city council as the lowest and best secured bid for the doing of the work mentioned in this division.

(Code 1974, § 8-40; Code 1994, § 26-100; Code 2005, § 26-130; Ord. No. 2010-45, § 7, 1-10-2011)

Sec. 26-131. Summary abatement.

In addition to the remedies prescribed by this division, and cumulative thereof, if it shall be brought to the attention of the city council and the city council determines that any such nuisance is likely to have an immediate adverse effect upon the public health, comfort or safety, the city council may, by appropriate resolution or motion, order such nuisance summarily abated by the city in a reasonably prudent manner.

(Code 1974, § 8-42; Code 1994, § 26-101; Code 2005, § 26-131)

Sec. 26-132. Preparation and mailing of notices and bills.

All notices to cut grass, weeds or brush or to abate any nuisance under this division, and all statements evidencing costs to the city of cutting weeds or abatement of nuisances, upon the failure, refusal or neglect of the owner to cut grass, weeds or brush or to abate the nuisance after having been notified to do so, as well as all other clerical work incident to enforcement of the provisions of this division, shall be prepared and mailed by the city manager or his/her designee.

(Code 1974, § 8-43; Code 1994, § 26-102; Code 2005, § 26-132; Ord. No. 2010-45, § 8, 1-10-2011)

Sec. 26-133. Collection and disposition of funds.

All payments of money by and collections of money, if any, from property owners for the purpose of paying the city for its expense in abating nuisances as provided for in this division shall be handled by the city secretary. Any such payment or collection so made shall be received by and receipted for, in duplicate, by the city secretary or one of the secretary's duly authorized assistants.

Such receipts and the necessary records in connection therewith shall be prepared and handled and maintained as a permanent record, and such sums of money shall be handled, in the form and manner prescribed by the city manager.

(Code 1974, § 8-44; Code 1994, § 26-103; Code 2005, § 26-133)

Sec. 26-134. Penalty for failure to abate nuisance.

Any owner, lessee or occupant, whether a natural person or a corporation, or any agent, servant, representative or employee of any such owner, lessee or occupant, including any person having ownership, occupancy or control of any premises or lot or parcel of land or any part thereof, or any interest therein, or improvements thereon, situated within the limits of the city, on which there exists any nuisance, as described in this division, who shall intentionally, knowingly, recklessly or with criminal negligence allow or permit any such nuisance to be created, or to remain and continue if created and established, or who shall fail, refuse or neglect to remove or abate such nuisance by one of the methods provided in this division or otherwise regulating such premises so as to prevent such a nuisance within ten calendar days from the date of service of notice thereof as provided for in this division, shall be deemed guilty of a misdemeanor.

(Code 1974, § 8-45; Code 1994, § 26-104; Code 2005, § 26-134; Ord. No. 90-30, § 2, 11-5-1990; Ord. No. 2010-45, § 9, 1-10-2011)

Secs. 26-135--26-151. Reserved.

ARTICLE V. JUNKED VEHICLES*

***State law reference**—Junked vehicles as nuisance, V.T.C.A., Transportation Code § 683.072; abatement of nuisance of junked vehicles, V.T.C.A., Transportation Code §§ 683.071--683.078.

Sec. 26-152. Definitions.

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

Administrator means any person duly appointed by the city council to administer and enforce this article.

Antique auto means a passenger car or truck that is at least 25 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Demolisher means a person or entity whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Junk vehicle or *junked vehicle*.

(1) The term "junk vehicle" or "junked vehicle"means any motor vehicle that is self-propelled and is:

   a. Wrecked, dismantled, partially dismantled or discarded; or

   b. Inoperable for a continuous period of more than:

      1. 72 consecutive hours, if the vehicle is on public property; or

      2. 30 consecutive days, if the vehicle is on private property.

(2) For purposes of this article, the term "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This article applies only to:

a. A motor vehicle that displays an expired license plate or does not display a license plate;

b. An aircraft that does not have lawfully printed on the aircraft an unexpired registered under Federal Aviation Administration aircraft registration regulations in 14 CFR 47; or

c. A watercraft that:

1. Does not have lawfully on board an unexpired certificate of number; and

2. Is not a watercraft described by section 31.055, Parks and Wildlife Code.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

(b) Any word not specifically defined in this section shall have the same meaning as that word has under V.T.C.A., Transportation Code ch. 683.

(Code 1974, § 8-25; Code 1994, § 26-152; Code 2005, § 26-152; Ord. No. 92-22, § 8-25, 11-16-1992; Ord. No. 2000-51, §§ 1, 2, 1-8-2001; Ord. No. 2009-13, § 2, 7-20-2009)

Sec. 26-153. Public nuisance declared.

A junked vehicle, including a part of a junked vehicle, that is located in any place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city by producing urban blight which is adverse to the maintenance and continuing development of the city, and such vehicles are hereby declared to be a public nuisance.

(Code 1974, § 8-26; Code 1994, § 26-127; Code 2005, § 26-153; Ord. No. 92-22, § 8-26, 11-16-1992; Ord. No. 2000-51, § 3, 1-8-2001; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.072.

Sec. 26-154. Administrative abatement process.

The administrator shall determine when a junk vehicle or part thereof is located so as to be visible from a public place or public right-of-way, thereby constituting a public nuisance.

(Code 1974, § 8-27; Code 1994, § 26-128; Code 2005, § 26-154; Ord. No. 92-22, § 8-27, 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

Sec. 26-155. Notice--Private property.

(a) For a nuisance on private property, the administrator shall give not less than ten days' notice stating the nature of the public nuisance on private property, that it must be removed and abated within ten days following service of notice to abate such nuisance, and that if not abated by such day a hearing will be held by the city council or its designee. The notice shall set forth the date, time and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed, by certified mail with a five-day return requested, to the last known registered owner of the junk motor vehicle, any lienholder of record, and to the owner or occupant of the private premises upon which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered.

(b) If any notice is returned undelivered by the post office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(Code 1974, § 8-27(a); Code 1994, § 26-129; Code 2005, § 26-155; Ord. No. 92-22, § 8-27(a), 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.075.

Sec. 26-156. Same--Public property.

(a) For a nuisance on public property, the administrator shall give not less than ten days' notice stating the nature of the public nuisance on public property or on a public right-of-way, that it must be removed and abated within ten days following service of notice to abate such nuisance, and that if not abated by such day a hearing shall be held by the city council or its designee. The notice must set forth the date, time and location of the hearing. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. The notice shall be mailed, by certified mail with a five-day return receipt requested, to the last known registered owner of the junk motor vehicle, any lienholder of record, and to the owner or occupant of the public premises or the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered.

(b) If any notice is returned undelivered by the post office, official action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(Code 1974, § 8-27(b); Code 1994, § 26-130; Code 2005, § 26-156; Ord. No. 92-22, § 8-27(b), 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.075.

Sec. 26-157. Public hearing.

Any order issued after the hearing provided for in section 26-155 or 26-156 shall include a description of the vehicle, or vehicle part, and the correct identification number and license number of the vehicle, if the information is available at the site. After any junk vehicle is removed as provided for in this article, it shall not thereafter be reconstructed or made operable.

(Code 1974, § 8-27(c); Code 1994, § 26-131; Code 2005, § 26-157; Ord. No. 92-22, § 8-27(c), 11-16-1992; Ord. No. 93-19, § 2, 9-27-1993; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.076.

Sec. 26-158. Removal by city.

When a junked vehicle, or part thereof, remains on the property after being ordered removed as provided by this article, the administrator shall cause such vehicle, or part thereof, to be removed and sold for the best price obtainable to a scrap yard or demolisher. All sums so raised shall be turned over to the city secretary for deposit in the general fund of the city.

(Code 1974, § 8-27(d); Code 1994, § 26-132; Code 2005, § 26-158; Ord. No. 92-22, § 8-27(d), 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.078.

Sec. 26-159. Enforcement options.

(a) Any person violating a provision of this article may be subject to the administrative abatement process as set forth in sections 26-154 through 26-157, may be criminally prosecuted in the municipal court of the city under the penal provision of section 26-162, or both.

(b) The relocation of a junked vehicle that is a public nuisance to another location in the same municipality or county after a proceeding for the abatement and removal of the public

nuisance has commenced shall have no effect on the proceeding if the administrator determines that the junked vehicle constitutes a public nuisance at the new location.

(Code 1994, § 26-133; Code 2005, § 26-159; Ord. No. 93-19, § 1, 9-27-1993; Ord. No. 2000-51, § 4, 1-8-2001; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.074.

Sec. 26-160. Notice to department of transportation.

Within five days after the date of the removal of the junk vehicle, notice shall be given to the state department of transportation, identifying the junk vehicle, or part thereof.

(Code 1974, § 8-28; Code 1994, § 26-134; Code 2005, § 26-160; Ord. No. 92-22, § 8-28, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.074.

Sec. 26-161. Exceptions.

The provisions of this article shall not apply to:

(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

(2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

a. Maintained in an orderly manner;

b. Not a health hazard; and

c. Screened from ordinary public view by appropriate means, including a fence, rapidly growing trees or shrubbery.

(Code 1974, § 8-29; Code 1994, § 26-135; Code 2005, § 26-161; Ord. No. 92-22, § 8-29, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

State law reference—Similar provisions, V.T.C.A., Transportation Code § 683.077.

Sec. 26-162. Penalty for violation of article.

Any person who maintains a nuisance as described in this article shall, upon conviction, be guilty of a misdemeanor. In addition, upon conviction, the court shall order removal and abatement of the nuisance, which order may be enforced by any means authorized by the laws of the state.

(Code 1974, § 8-31; Code 1994, § 26-136; Code 2005, § 26-162; Ord. No. 92-22, § 8-31, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

Sec. 26-163. Interpretation.

Nothing in this article shall be construed to conflict with procedures set forth for dealing with abandoned motor vehicles as defined in V.T.C.A., Transportation Code ch. 683.

(Code 1974, § 8-30; Code 1994, § 26-137; Code 2005, § 26-163; Ord. No. 92-22, § 8-30, 11-16-1992; Ord. No. 2009-13, § 2, 7-20-2009)

Secs. 26-164--26-194. Reserved.

ARTICLE VI. LITTER*

***State law reference—**Texas Litter Abatement Act, V.T.C.A., Health and Safety Code ch. 365.

Sec. 26-195. Unlawful acts.

It shall be unlawful for any person, in person or by his agent, employee or servant, to cast, throw, sweep, sift or deposit in any manner in or upon any public way or other public place in the city or any stream, creek, pond or lake, public water, drain, sewer or receiving basin within the jurisdiction of the city, any kind of dirt, rubbish, or waste article, thing or substance whatsoever, whether liquid or solid. It shall be unlawful for any person to cast, throw, sweep, sift or deposit any of the aforementioned items anywhere within the jurisdiction of the city in such manner that it may be carried or deposited, in whole or in part, by the action of the sun, wind, rain or snow, into any of the aforementioned places.

(Code 1974, § 8-8; Code 1994, § 26-161; Code 2005, § 26-195)

Sec. 26-196. Permitted deposits.

Section 26-195 shall not apply to the deposit of material under a permit authorized by any ordinance of the city; or to goods, wares or merchandise deposited upon any public way or other public place temporarily, in the necessary course of trade, and removed therefrom within two hours after being so deposited; or to articles or things deposited in or conducted into the city sewerage system through lawful drains in accordance with the ordinances of the city relating thereto.

(Code 1974, § 8-9; Code 1994, § 26-162; Code 2005, § 26-196)

Sec. 26-197. Covering of vehicles to prevent spillage.

It shall be unlawful for any person, in person or by his agent, employee or servant, to use any vehicle to haul any kind of dirt, rubbish, waste article or thing or substance, whether liquid or solid, unless such vehicle is covered to prevent any part of its load from spilling or dropping at all times while such vehicle is in motion on any street or alley in the municipality, and except while actually being loaded or unloaded; provided, however, the requirements in this section for covering such vehicles shall not apply to vehicles carrying brush cuttings, tree trimmings, branches, logs and similar waste material, if such matter is securely lashed to such vehicle to prevent spilling or dropping as provided in this section.

(Code 1974, § 8-10; Code 1994, § 26-163; Code 2005, § 26-197)

Secs. 26-198--26-217. Reserved.

ARTICLE VII. OIL AND GAS*

***State law reference**—Oil and gas, V.T.C.A., Natural Resources Code ch. 81 et seq.; lease of municipal oil, gas or mineral land, V.T.C.A., Local Government Code § 253.005; disposition of the public domain, oil and gas, V.T.C.A., Natural Resources Code ch. 52; municipal regulation of exploration and development of mineral interests, V.T.C.A., Natural Resources Code § 92.007.

DIVISION 1. GENERALLY

Sec. 26-218. Definitions.

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

Abandonment is as defined by the railroad commission and includes the plugging of the well and restoration of the well site as required by this article.

Blowout preventer means a mechanical, hydraulic, pneumatic, or other device or combination of such devices secured to the top of the 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 to prevent blowouts.

Building means any structure used or intended for supporting or sheltering any use or occupancy, which includes, but is not limited to, all related well site work and placement of construction materials on the well site.

Child-care facility means a "child-care facility" as defined by of the V.T.C.A., Human Resources Code ch. 42.

Christmas tree means the control valves, pressure gauges, and chokes assembled at the top of a well to control the flow of oil and gas after the well has been drilled and completed. A Christmas tree is used when reservoir pressure is sufficient to cause reservoir fluids to flow to the surface.

City dispatcher means any representative situated at the city police station.

City engineer means the city engineer or his designated representative.

City officials. When the title of any city official is used in this article, such title shall include any duly authorized representative of such official.

Closed loop mud system means an enclosed suite of solids control equipment used for mud circulation and intended to minimize drilling fluid dilution to provide for handling of the drilling wastes so that reserve pits are not used.

Completion of drilling, re-drilling and reworking means the date the work is completed for drilling, re-drilling or reworking and the crew is released.

Comprehensive master plan means the city comprehensive master plan, as amended, consisting of multiple elements, as adopted by the city council.

Compression station means those facilities that compress natural gas after production-related activities occur.

Construction means causing or carrying out any building, bulk head, filling, clearing, excavation or substantial improvement to land or to the size of any structure.

Curbline means the line established by the city for any particular street.

Daytime means the period from 7:00 a.m. to 7:00 p.m.

Decibel (db) means a unit for measuring the intensity of a sound/noise and is equal to ten times the logarithm to the base ten of the ratio of the measured sound pressure squared to a reference pressure which is 20 micropascals.

Derrick means any portable framework, tower, mast and/or structure that is required or used in connection with drilling or reworking a well for the production of oil and/or gas.

Drilling means digging or boring a well for the purpose of exploring for, developing or producing oil and/or gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling district means a tract of land comprising a "spacing unit" or "proration unit" as determined by the railroad commission.

Excavation means any movement or alteration of the surface of the ground by machinery in conjunction with or anticipation of drilling activities or construction of a pipeline, including, but not limited to, scraping or grading a site.

Floodplain means any land area susceptible to a general and temporary condition of partial or complete inundation of normally dry land areas in a base flood from overflow of inland waters or from the unusual and rapid accumulation or runoff of surface waters from any source, as

designated by the city, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, or other regulatory authority.

Fracturing means the process of fracture stimulation of a rock formation, including, but not limited to, the process of pumping sand laden fluids down a well, or any other means used, to stimulate a rock formation.

Franchise means an agreement between a utility provider and the city authorizing such utility to utilize public rights-of-way for the location of such utility's service lines for the purpose of providing utility services to the public located within the city.

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 and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas, and/or any material defined or referred to as "gas" in the rules, regulations or forms of the railroad commission.

Gathering lines means all pipelines operated incidentally to the development and operation of any oil and/or gas wells, or oil and/or gas fields and/or secondary recovery projects.

Green completion means using technology to recover gas that may otherwise be vented or flared during the completion phase of a well; using equipment designed to handle high pressure, high rate flowback fluids so as to safely handle and to sell the natural gas produced during the flowback period; using flowback equipment to separate sand, water and gas during initial flowback; having a sales line in place prior to completion of the fracturing process; using the recommended technologies and practices outlined in the U.S. Environmental Protection Agency Natural Gas STAR Program; and also including, but not limited to, vapor recovery systems, no-bleed pneumatic valves, flaring and venting bans, and electric compressors.

Habitable structures means structures suitable for human habitation or occupation, including, but not limited to, single-family or multifamily residences, hotels, condominium buildings, public buildings, buildings for commercial or industrial purposes and enclosed spaces in which individuals congregate for education, worship, amusement, or similar purposes, or in which occupants are engaged in labor, which is equipped with means of egress, light and ventilation facilities. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartments, then the entire building, not the individual apartments, is considered a single habitable structure. The term "habitable structure" does not include accessory buildings, garages and sheds. Any structure for which a certificate of occupancy is required shall be deemed to be a habitable structure.

Historical site means an historic structure, as defined by V.T.C.A., Government Code § 442.001, or a structure or property that is designated as historic by a political subdivision of the state, the state, or the federal government.

Inspector means any city employee or independent contractor designated by the city manager to enforce the provisions of this article.

Low-pressure distribution system means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the retail customer/end-user.

Main means a distribution line that serves as a common source of supply for more than one service line.

Nighttime means that period not included in the definition of "daytime," as defined in this section.

Operations means activities leading to and supporting the production of oil, gas and/or other hydrocarbons.

Operator means the person listed on the railroad commission form W-1 or form P-4 for a well as the applicant or the person that will be actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as defined herein, for any well is not the lessee of any premises affected by the provisions of this article, then such lessee shall also be deemed to be an operator. In the event there is no oil and gas lease relating to any premises affected by this article, the owner of the fee mineral estate shall also be deemed an operator. For purposes of a pipeline, the term "operator" shall mean any person owning, operating or responsible for operating a pipeline.

Person means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, other noncorporeal legal entity, the U.S. Government, a state, a municipality, commission, political subdivision or any international or interstate body or any other governmental entity.

Pipeline or *pipeline system* means all parts of a pipeline facility through which gas, hazardous liquid or carbon dioxide moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, compressor units, pumping units, fabricated assemblies associated with compressor units, pumping units, metering and delivery stations, holders, and fabricated assemblies therein and breakout tanks, including, but not limited to, trunkline pipelines and gathering lines as defined by this section.

Public park means any land area dedicated to and/or maintained by the city for traditional park-like recreational purposes, but shall not include privately owned amusement parks or privately owned or privately managed golf courses.

Railroad commission means the Railroad Commission of Texas.

Religious institution means any building in which persons regularly assemble for religious worship and participate in activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence means a building used or intended to be used as a place of general abode or dwelling place.

Residential subdivision means any platted subdivision of land zoned for any single-family or garden home residential use pursuant to the zoning regulations.

Right-of-way is expressly limited to all public rights-of-way or streets or other public property within the city.

School means any public and 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.

Seismic survey means any activity where shock waves, sound waves, or vibrations are generated for the purpose of surveying, mapping, identifying, classifying or otherwise distinguishing subsurface characteristics indicative of the presence or absence of hydrocarbon substances, including, but not limited to, oil and natural gas.

Senior living facility means a multifamily housing unit or structure designed, constructed, operated and intended to provide residential accommodations to individuals over the age of 60.

Street means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Structure means, without limitation, any building, or combination of related components constructed in an ordered scheme that constitutes a work or improvement constructed on or

affixed to land, including, but not limited to, habitable structures, partially enclosed structures and enclosed tanks.

Tank battery means the point of collection (tanks) and disbursement (tank, meter, lease automated custody transfer unit) of oil or gas from producing wells.

Trunkline pipeline means common carrier pipelines and other main pipelines not included in the definition of gathering lines, expressly including their rights-of-way as defined and established by instruments of record in the office of the county clerk.

Well means any hole or bore to any sand, horizon, formation, strata or depth for the purpose of producing any oil, gas, liquid hydrocarbon, brine water, sulphur water or use as an injection well for secondary recovery, or any of them.

Well permit means either a high impact well permit or an urban well permit.

Zoning regulations means the city zoning ordinance, as it may be amended.

(b) All technical or oil and gas industry words or phrases used in this article and not specifically defined in this section shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

(Code 2005, § 26-218; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-219. Inspector/coordinator.

(a) The city manager shall designate officials who shall enforce the provisions of this article. The city manager may retain inspectors and hereby designates the fire marshal and other city inspectors as needed to enforce this article. Any independent contractor inspector shall have a degree in petroleum engineering with experience in drilling and production or demonstrate a proven background in the drilling, production and operation of wells. The inspector 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.

(b) The 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 state. Failure of any person to permit access to the inspector shall constitute a violation of this article. The inspector may conduct periodic inspections of all permitted wells in the city to determine that the wells are operating in accordance with this article and within proper safety parameters as set out in this article and all regulations of the railroad commission.

(c) The inspector shall have the authority to request and receive any records, including any records sent to the railroad commission, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable well permit. Failure of any person to provide any such requested material shall be deemed a violation of this article.

(Code 2005, § 26-219; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-220. Variance procedure.

(a) An operator seeking a permit or other approval required by this article may apply for a variance from the requirements of this article by submitting to the city engineer, a written request for a variance. The request must include the following, where applicable; provided, however, that the provision of the information below will not automatically result in the approval of the variance request:

(1) Description of the requested variance and an explanation of why it should be granted;

(2) Description of alternatives considered and why each is not the preferred alternative;

(3) Description of the economic consequences to the applicant if the variance is not granted;

(4) Description of how the public health, safety and general welfare will be protected if the variance is granted; and

(5) A site plan of the site visually depicting the requested variance, if the request for the variance involves the location or orientation of persons or property.

(b) In the case of an application for a variance to any mandatory setback established by this article, a written explanation documenting the applicant's good faith efforts to obtain a notarized consent form signed by 100 percent of all owners of the affected surface interests.

(c) The city engineer shall review the application and shall place each variance request on the city council agenda for consideration. The variance request must be placed on the city council agenda for consideration within 45 days after the city engineer issues a written determination that the variance request is administratively complete.

(d) In considering the variance the city council may take into account the following:

(1) Whether the operations proposed are safe and reasonable under the circumstances and conditions prevailing in the area, considering the particular location and the character of the improvements located there;

(2) How the operations proposed compare to available alternatives;

(3) Whether the operations proposed would conflict with the orderly growth and development of the city;

(4) The economic consequence to the applicant if the variance is not granted;

(5) Whether the operations proposed adequately protect the health, safety and general welfare of the public; and

(6) Whether the operations proposed provide acceptable access for fire and EMS personnel and firefighting equipment.

(e) In order to be approved, a proposed variance must receive the affirmative vote of a supermajority of the members of the city council then present and voting; provided, however, that with respect to a variance from the provisions of section 26-270, regarding mandatory setbacks, in order to be approved, the proposed variance must then receive the affirmative vote of three-fourths of all members of the city council, whether present or not. The details of each action granting or denying the requested variance shall be recorded and entered in the records of the city secretary. The city engineer shall forward a letter to the applicant stating whether the city council has approved or denied the variance request and listing any conditions placed upon an approval.

(f) An application fee shall be charged for each variance application, in the amount set by resolution and printed in Appendix D to this Code.

(Code 2005, § 26-220; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-221. Appeal procedure.

(a) An operator adversely affected by a decision of a city official under this article may appeal such decision by filing written notice of such appeal to the office of the city secretary within ten business days of notice of such adverse decision. The notice of appeal must state the appellant's desire to appeal, the ruling from which the appellant desires to appeal and the relief or ruling sought. Any such appeal shall be to the city council. The city council, by the affirmative vote of a majority of the members then present, may affirm, reverse or modify the decision of a city official. The decision of the city council concerning an appeal under this article shall be final. The

decision being appealed shall be suspended pending such appeal, unless the city manager determines that such suspension endangers the public health and safety, in which case the filing of a notice of appeal shall not act to suspend the decision of the city official.

(b) Any appeal shall be governed by the following rules and procedures:

(1) Such appeal shall be set as an item on the regular city council agenda.

(2) The appellant shall bear the burden of persuasion that the ruling being appealed is in error and shall bear the burden of proof on such matter.

(3) No formal testimony or swearing of witnesses shall be required and the city council may consider any facts or evidence the city council determines is appropriate. The city official shall present the facts and evidence relied upon by him and the reasons for the ruling; the appellant shall then have an opportunity to present the facts and evidence relied upon by the appellant. The city council shall then consider any facts or evidence from the public or other interested persons. The city council may ask questions of the city official, appellant and any other interested persons as the city council determines is appropriate. The city council may limit the time for any presentation in its sole discretion.

(4) Upon the conclusion of the hearing, the city council shall then render its decision.

(c) No appeal for the same or related issue on the same piece of property shall be allowed from a previous ruling on any appeal absent a material change of circumstances. If the appellant asserts such a change of circumstances and seeks rehearing of an appeal, such appeal need not be considered unless the applicant presents in writing evidence establishing such change of circumstances. Any such subsequent appeal shall be considered entirely on its own merits and the peculiar and specific conditions related to the property on which the appeal is brought.

(d) An application fee shall be charged for each appeal, in the amount set by resolution and printed in Appendix D to this Code.

(Code 2005, § 26-221; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-222--26-229. Reserved.

DIVISION 2. PERMITS

Sec. 26-230. Well permit required.

(a) A person wanting to engage in and operate well drilling or production activities shall apply for and must obtain a well permit under this division and shall indicate what classification of well permit is requested. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, reworking, operation of any such well or to conduct any activity related to well production without first obtaining a well permit issued by the city in accordance with this division. A separate permit shall be required for seismic surveys in accordance with section 26-237.

(b) An operator must apply for and obtain a well permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well. A separate application is required for each well bore and no permit shall be issued on a "blanket" basis.

(c) A 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 division if the operator is re-entering and drilling an abandoned well.

(d) When a well permit has been issued to the operator for the drilling, re-drilling, deepening, re-entering, activating or converting of a well, such well permit shall constitute sufficient authority for drilling, operation, production gathering or production maintenance,

repair, reworking, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site of such well; provided, however, that a new permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth or use other than that set forth in the then current permit for such well.

(e) A well permit shall automatically terminate, unless extended, if drilling is not commenced within 180 days from the date of the issuance.

(f) A well permit required by this division is in addition to and is not in lieu of any permit that may be required by any other provision contained within this Code or by any other governmental agency.

(g) By acceptance of any well permit issued pursuant to this division, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this division. The terms of this division shall be deemed to be incorporated in any well permit issued pursuant to this division with the same force and effect as if this division was set forth verbatim in such well permit.

(Code 2005, § 26-230; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-231. Well permit application contents.

(a) Every application for a well permit shall be in writing, signed by the operator or person duly authorized to sign on the operator's behalf, and filed with the city engineer. A separate application is required for each well bore. The city may engage a third party consultant or engineer to review information submitted by the applicant for compliance with this division and verification of the submittal information and the actual cost of such third party review shall be charged to the operator/applicant. An application fee shall be charged for each application, in the amount set by resolution and printed in Appendix D to this Code.

(b) Each well permit application shall contain the following information:

(1) The date of the application.

(2) An accurate legal description of the property to be used for the oil and/or gas operation, the parcel, the production unit and name of the geologic formation as identified by the railroad commission. Property recorded by plat should be referenced by subdivision, block and lot numbers, as applicable.

(3) If a specific use permit has been approved for the proposed oil and gas operation, a list of all requirements set forth in the approved specific use permit and a written summary of how those requirements will be met.

(4) A map showing the proposed transportation route identifying all public and private roads/routes intended for use within the territorial limits of the city.

(5) The proposed well name.

(6) The surface owner name, phone number, address, and, if available to the operator, primary email address.

(7) The mineral lessee name, phone number, address, and, if available to the operator, primary email address.

(8) Operator name, phone number, facsimile transmission number, address, and primary e-mail address.

(9) If the operator is a corporation or other noncorporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names, addresses and primary e-mail addresses of the general partners.

(10) Name, phone number, address, and, primary email address of the individual designated to receive notice on behalf of the operator.

(11) Name of representative with supervisory authority over all well site activities and a 24-hour phone number.

(12) Owner and address of each parcel of property within 1,000 feet of the parcel on which the proposed drill site is located, as indicated in the most recently approved municipal tax roll.

(13) A site plan of the proposed well site depicting the color, height, size, bulk and location of all structures and equipment specific to the proposed site, including, but not limited to, all screening, landscaping, lighting, utilities and floodplain designation; and the location and description of all improvements, structures, utilities and floodplain areas within 1,000 feet of the proposed well site.

(14) The name, address, primary e-mail address and 24-hour phone number of the person to be notified in case of an emergency.

(15) Copies of all reports required by the railroad commission, specifically, including a copy of the approved railroad commission form W-1 and/or form P-4.

(16) A signed statement of intent to execute a road remediation agreement and pay the road damage remediation fee, as provided in this division.

(17) A description of all fuel sources to be used at the proposed well site, including, but not limited to, all public utilities needed during drilling and operation.

(18) A description of the water source to be used during well operations, including during drilling and production activities. If city water will be sought for operations, a copy of the completed "utility capacity request" must be included.

(19) A copy of the approved railroad commission permit to drill, including attachments and survey plats that are applicable to the well site.

(20) A stormwater pollution prevention plan (SWPPP) complying with all federal, state, and local stormwater quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements.

(21) A tree protection/preservation plan complying with all requirements of the city's tree preservation ordinance.

(22) An erosion control plan complying with all requirements of the city.

(23) A hazardous materials management plan.

(24) All current material safety data sheets (MSDS) detailing each of the hazardous and nonhazardous materials that will be located, stored, transported and/or used at the well site (including site preparation, boring, completion, fracturing (or similar programs)).

(25) An emergency response plan.

(26) A noise management plan.

(27) A vibration attenuation plan.

(28) A signage plan complying with all requirements of the railroad commission for the well site that includes the dimensions, colors and content of all signage proposed to be installed at the well site.

(29) A screening, fencing and landscape plan, including a line of site analysis, detailing compliance with all landscape and screening requirements required by this division,

including a proposed schedule detailing the timing of all landscaping, screening and fencing to be installed.

(30) A landscape irrigation plan as designed by a state licensed landscape architect or licensed irrigator detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation.

(31) A copy of the determination by the state railroad commission concerning the depth of useable quality groundwater.

(32) Evidence of insurance and security meeting the minimum levels established by this division.

(33) A dust mitigation plan detailing measures to be implemented to mitigate and suppress dust generated at the well site and the private vehicle access route, including a mud shaker for vehicles exiting the site.

(34) A detailed evacuation plan addressing the evacuation strategy for persons within 1,000 feet of the well bore.

(35) A waste management plan that addresses collection and removal of human, solid and drilling production waste.

(36) A leak detection and compliance plan (LDCP) that is intended to assess and evaluate the impact of drilling, production, and other activities at the well site and immediate surroundings.

(37) A green completion plan that addresses equipment, techniques, practices and programs that will be implemented to reduce emissions from well site equipment and produced hydrocarbons.

(38) A gas dispersion model, a risk assessment and a blast study.

(39) A description of the cement casing program proposed for the well.

(40) A traffic impact analysis study.

(41) A supervisory control and data acquisition (SCADA) plan.

(42) A site lighting plan designed to promote the safety of nighttime operations.

(43) A surface reclamation plan.

(44) Detailed design drawings certified by a registered professional engineer licensed in the state along with all basic design criteria for the pipeline intended to serve the well.

(45) Location of compressor, compressor control, or safety devices with an explanation of the operating characteristics of each.

(c) All applications for a well permit shall be accompanied by an application fee in the amount set by resolution and printed in Appendix D to this Code.

(Code 2005, § 26-231; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-232. High impact well permit.

(a) A high impact well permit shall be required if the proposed well is to be located within 1,000 feet of a residence, religious institution, hospital building, school, cemetery, historical site or public park. The measurement of the 1,000-foot distance shall be made from the proposed well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building, or, in the case of a cemetery, historic site or public park, to the closest property line. This provision includes any residence, religious institution, hospital building, or

school for which a building permit has been issued on the date the application for a permit is filed with the city. All applications for a high impact well permit shall be accompanied by an application fee in the amount set by resolution and printed in Appendix D to this Code.

(b) An application for a high impact well permit shall include all the requirements of section 26-231. The permitting procedure for a high impact well permit shall be as follows:

(1) Within 45 days of receipt of a complete application, the city engineer shall place the matter on the city council agenda for a public hearing and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The 45-day period shall not begin to run until the applicant/operator has provided the city engineer with a complete application package.

(2) At least 20 days and no more than 30 days prior to the date of the public hearing before the city council for a high impact well permit the operator shall notify, at the operator's expense:

a. Each surface owner of property, as shown by the current tax roll, within 1,000 feet of the proposed well; and

b. Each owner of a residence, religious institution, hospital building, school, cemetery and historic site, as shown on the current tax roll, within 1,000 feet of the proposed well;

of the hearing date and time. 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 an affidavit with the city engineer 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 well site.

(3) At least 15 days and no more than 20 days prior to the date of the public hearing before city council for a high impact well permit the operator, at the operator's expense, shall publish a copy of the notice as outlined below 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 Friendswood, Texas, on the _____ day of _____, 20_____, _____ filed with the City of Friendswood, an application for a High Impact well permit to drill, complete and operate a well upon property located at _____, _____ County, Friendswood, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas, or per Tax Tract Number _____, _____ County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of _____, 20_____ at _____ o'clock in the City Council Chambers located at 910 S Friendswood Dr., Friendswood, Texas."

(4) At least 20 days, but not more than 30 days, prior to the date of the public hearing before the city council for a high impact well permit the operator shall, at the operator's expense, erect at least one sign, no less than three feet by three feet, upon the premises upon which a high impact 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 sign shall substantially indicate that a high impact well permit to drill has been requested and state the date, time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/operator at the number indicated on the sign.

b. The continued maintenance of any such sign shall not be deemed a condition precedent to the holding of any public hearing or to any other official action pursuant to this division.

c. Any sign shall be removed by the applicant/owner subsequent to final action by the city council.

(5) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(6) After a high impact permit application is submitted, the city engineer shall evaluate the public impact of the proposed activity. The city engineer shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the city engineer deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing along with evidence that timely actual notice of the hearing was given to all persons as required by this division.

(7) The burden of proof on all matters considered at the hearing shall be upon the applicant/operator.

(8) The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a high impact well permit:

a. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;

b. Whether the drilling of such well would conflict with the orderly growth and development of the city;

c. Whether there are other alternative well site locations that would allow reasonable access to explore, develop and produce the mineral estate without creating mineral waste;

d. Whether the operations proposed are consistent with the health, safety and welfare of the public when and if conducted in accordance with the high impact well permit conditions to be imposed;

e. Whether there is acceptable access for the city fire personnel and firefighting equipment;

f. Whether the impact upon adjacent property and the general public by operations conducted in compliance with the well permit conditions is reasonable and justified, balancing the following factors:

1. The right of the owner of the mineral estate to explore, develop, and produce the minerals; and

2. The availability of alternate well sites; and

g. The recommendations of the city engineer.

(9) The city council may require an increase in the distance the well is set back from any residence, religious institution, public building, hospital building, school, cemetery, historical site or public park, or require any change in operation, plan, design, layout or any change in the on-site and technical regulations of this division, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.

(10) The city council may accept, reject or modify the application in the interest of securing compliance with this division, this Code and/or to protect the health, safety and welfare of the community.

(Code 2005, § 26-232; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-233. Urban well permit.

(a) An urban well permit shall be required for all wells within the city that do not require a high impact well permit.

(b) An application for an urban well permit shall include all of the requirements of section 26-231. All applications for an urban well permit shall be accompanied by an application fee in the amount set by resolution and printed in Appendix D to this Code. The permitting procedure for an urban well permit shall be as follows:

(1) At least ten days prior to the date of filing of an application for an urban well permit the operator shall notify, at the operator's expense, each surface owner of property, as shown by the current tax roll, within 300 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 an urban well permit the operator, at the operator's expense, shall publish a copy of the notice as outlined below in 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 Friendswood, Texas, on the _____ day of _____, 20_____, _____ will file with the City of Friendswood, an application to drill, complete and operate a well upon property located at _____, _____County, Friendswood, Texas, more particularly shown on the map of record in Volume _____, Page _____, Plat records of _____ County, Texas, or per Tax Tract Number _____, _____ County, Texas."

(3) At least ten days, but not more than 30 days, prior to the date of filing of an application for an urban well permit 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 an urban 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 sign shall substantially indicate that an urban well permit to drill 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 sign shall not be deemed a condition precedent to any official action pursuant to this division.

c. Any sign shall be removed subsequent to final action by the city engineer or the city council.

(4) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(c) It is the responsibility of the city engineer to review and accept or reject all applications for urban well drilling permits based on the criteria established by this division. The city engineer, within 30 days after the filing of a completed application and remittance of all fees, insurance and security pursuant to the requirements of this division for an urban well permit, shall determine whether or not the application complies in all respects with the provisions of this division and determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested urban well permit on the date the completed application is received by the city engineer. Failure of the city engineer to complete the review and issue the urban well permit within the time limits specified above shall not cause the application for the urban well permit to be deemed approved.

(d) If the city engineer denies an urban well permit application he 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 of the city engineer to deny the urban well permit, the operator may:

(1) Cure those conditions that caused the denial and resubmit the application to the city engineer for reconsideration; or

(2) File an appeal to the city council under the provisions outlined in section 26-221.

(e) An operator/applicant may at any time request that an urban well permit application be processed and considered as a high impact well permit application, in which case the city engineer shall process the application in accordance with section 26-232.

(Code 2005, § 26-233; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-234. Amended well permits.

(a) An operator may submit an application to the city engineer to amend an existing well permit in any respect other than to change the location of the well site, to perform drilling operations in a manner that was not approved under the original well permit or where the proposed amendment would result in a conflict with any specific use permit applicable to the well site property.

(b) Applications for amended well permits shall be in writing on forms provided by the city and signed by the operator, and shall include the following:

(1) An application fee in the amount set by resolution and printed in Appendix D to this Code, which shall be nonrefundable, regardless of the outcome of the application;

(2) A description of the proposed amendments;

(3) Any changes to the information submitted with the application for the current well permit (if such information has not previously been provided to the city);

(4) Such additional information as is reasonably required by the city engineer to demonstrate compliance with the provisions of this division; and

(5) Such additional information as is reasonably required by the city engineer to prevent imminent destruction of property or injury to persons.

(c) If, in the judgment of the city engineer, the activities proposed by the amendment require an inspection, an inspection fee in the amount set by resolution and printed in Appendix D to this Code shall be charged. In such event, the operator must pay such inspection fee before the amended well permit will be processed further.

(d) Incomplete applications shall not be accepted for filing and shall be returned to the operator within 30 business days. The city shall return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator or where the operator is in violation of any federal, state or local regulation with respect to the proposed activities covered by the application.

(e) If the activities proposed by the amendment are materially different from that previously approved by the city, and, in the judgment of the city engineer, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit, or that was not otherwise taken into consideration by the existing permit, the amendment shall be processed as a new well permit application.

(f) A decision to deny an amendment to a well permit shall be provided to the operator in writing, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council as provided in this division.

(Code 2005, § 26-234; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-235. Suspension or revocation of well permit; effect.

(a) An operator shall comply at all times with all applicable federal, state and city laws, regulations and rules. If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a well permit, the operator is subject to immediate citation, injunction, abatement or any other remedy permitted by law. When possible under the circumstance, the inspector, city engineer or other designated city employee or representative 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.

(b) If the operator fails to comply within ten days after notice, or fails to comply immediately if there is an imminent health and safety issue as determined in the sole discretion of the city engineer, the city engineer may suspend or revoke the well permit pursuant to the provisions of this division.

(c) No person shall engage in any operations performed under the terms of the well permit issued pursuant to this division during any period of any well permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the well permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the well permit was ordered for the safety of persons or as required by the railroad commission.

(d) If the operator does not cure the noncompliance within the time specified in this division or immediately if there is an imminent health or safety condition, the city engineer may notify the railroad commission and additionally request that the railroad commission take any appropriate action.

(e) The operator may file an appeal to any decision to suspend or revoke a well permit, in accordance with the provisions of this division.

(Code 2005, § 26-235; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-236. Transfer of well permits.

(a) A well permit may be transferred upon written request by the operator with the consent of the city:

(1) If the transferee agrees to be bound by the terms and conditions of the current well permit and road repair agreement;

(2) If all information previously provided to the city as part of the current well permit application is updated to reflect any changes; and

(3) If the transferee provides the insurance and security required by this article.

(b) The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the city. The transfer shall not relieve the transferor of any liability to the city arising out of any activities conducted prior to the transfer.

(c) Applications for the transfer of well permits shall be filed with the city engineer. An application fee shall be charged for each application, in the amount set by resolution and printed in Appendix D to this Code.

(Code 2005, § 26-236; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-237. Geophysical/seismic operations.

(a) A separate seismic survey permit shall be required for all seismic surveys. The operator conducting the seismic survey shall complete and submit a seismic survey application to the city engineer containing, at a minimum, the following information:

(1) Operator name, phone number, facsimile transmission number, address, and, if available, primary email address;

(2) If the operator is a corporation or other noncorporeal entity, the state of incorporation or organization; or if the operator is a partnership, the names, addresses and primary e-mail addresses of the general partners;

(3) Location of seismic survey;

(4) Date and time the seismic survey is intended to be conducted;

(5) Detailed explanation of the seismic survey method intended to be used;

(6) Date and time the seismic survey will be completed;

(7) Identification of all staging areas;

(8) A detailed map showing the locations of all vibration and geophone points; and

(9) An assessment of the proposed survey and a report issued by a state licensed professional engineer that the proposed survey will not have any adverse impact on existing infrastructure or nearby facilities.

(b) Under no circumstances may explosive charges, including, but not limited to, the use of dynamite, be used to conduct a seismic survey. In addition, the seismic survey activity shall be conducted in accordance with all applicable city ordinances.

(c) A fee in the amount set by resolution and printed in Appendix D to this Code must accompany each seismic survey permit application.

(d) No seismic activity shall be permitted on city-owned fee property or city-controlled rights-of-way or utility easements without the express consent of, and pursuant to the conditions established by, the city council pursuant to a negotiated revocable license agreement governing the same.

(e) Proof of insurance in the form of a standard commercial general liability insurance bond shall be required. This coverage must include premises, operation, products, completed operations, sudden or accidental pollution, blanket contractual liability, broad form property damage, independent contractors' protective liability and personal injury. This coverage shall be a minimum combined single limit per occurrence location for bodily injury and property damage as set by resolution and printed in Appendix D to this Code.

(f) Within 45 days of receipt of a complete application, the city engineer shall place the application on the city council agenda for a public hearing. The city council may accept, reject or modify the application in the interest of securing compliance with this division, this Code and/or to protect the health, safety and welfare of the community.

(Code 2005, § 26-237; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-238, 26-239. Reserved.

DIVISION 3. BOND, LETTERS OF CREDIT, INSURANCE AND INDEMNITY

Sec. 26-240. Bond and insurance; required amounts.

(a) If a permit is issued by the city engineer under the terms of this article for the drilling of a well or installation of pipeline, no actual operations shall be commenced unless the operator files with the city engineer a bond and certificate of insurance as follows:

(1) A bond in the principal sum as set by resolution and printed in Appendix D to this Code shall be executed by a reliable insurance company authorized to do business in the state, as surety, listing the applicant as principal, and running to the city for the benefit of the city and all persons concerned, under the condition that the operator shall comply with the terms and conditions of this article in the drilling and operation of the well or completion of a pipeline. Such bond shall become effective on or before the date it is filed with the city secretary and shall remain in force and effect for at least a period of six months subsequent to the expiration of the term of the permit issued; and, in addition, the bond will be conditioned that the operator will promptly pay all legally imposed fines, penalties and other assessments imposed upon the operator by reason of his breach of any of the terms, provisions and conditions of this article and that the operator will promptly restore the streets and sidewalks and other public property of the city which may be disturbed or damaged in the operations to their former condition; that the operator will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations, and will, after abandonment or completion, grade, level and restore such property to the same surface conditions, as nearly as possible, as existed when operations were first commenced; and that the operator will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the city manager shall, after hearing thereon, deem any operator's bond to be insufficient for any reason, the city manager may require the operator to file a new bond.

(2) If, after the completion of a producing well, a pipeline, or any facility for which a bond is required by this division, the operator has complied with all the provisions of this article, such as removing the derrick, clearing the premises and erection of fences, he may apply to have the bond reduced to a sum as set by resolution and printed in Appendix D to this Code on each well or facility for the remainder of the time such well produces or facility is

operated without reworking. During reworking operations, the amount of the bond shall be increased to the original amount. A pipeline installation shall not be considered as completed until the lines have been tested and in operation for a period of 30 days.

(b) In addition to the bond required in subsection (a) of this section, the operator shall carry a policy of standard, comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the operator and the city, with an insurance company authorized to do business in the state. Such policy in the aggregate shall provide for the minimum coverages set by resolution and printed in Appendix D to this Code.

(1) The operator shall file with the city secretary the certificates of insurance required by this section. The insurance policy shall not be canceled without written notice to the city secretary at least ten days prior to the effective date of such cancellation. If such insurance policy is canceled, the permit granted shall terminate, and the operator's right to operate under such permit shall cease until the operator files additional insurance as provided in this section. If after the completion of a well or pipeline, the operator has complied with all the provisions of this article, such as removing derrick, completion of the pipeline, clearing the premises, and any other provision of this article, the insurance will be as set by resolution and printed in Appendix D to this Code.

(2) Property damage insurance is for the remainder of the time such well is produced without reworking. During the reworking operations, the amount of the insurance policy or policies shall be increased to the original amount.

(c) Exceptions. The city manager may grant an exception to the requirements of this section when, in the city manager's opinion, the intent and purpose of the bond and insurance can be assured by the following means:

(1) Acceptance of the guarantee or indemnity to the city in lieu of bond and a plan of self-insurance in the case of financially responsible operators.

(2) Acceptance of a blanket bond and single policy of insurance to cover all operations of the operator within the corporate limits of the city.

(3) Application of bond and insurance requirements acceptable to the city manager.

(Code 2005, § 26-240; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-241--26-249. Reserved.

DIVISION 4. OPERATOR PLANS AND REPORTS

Sec. 26-250. Road remediation agreement and fee.

(a) A road remediation agreement and road damage remediation fee shall be submitted in conjunction with an application for a well permit. The agreement must be signed by the operator. The city manager shall have the authority to execute the road remediation agreement.

(b) A road damage remediation fee shall be charged for each well. To determine the road damage remediation fee, the operator shall employ a state licensed professional engineer who shall evaluate the anticipated damage to the city's public rights-of-way comprising the operator's proposed transportation route to the well, and using the current fair market value cost per square yard of road surface material, including installation and labor, calculate the cost to the city to repair or reconstruct the public rights-of-way to the same condition they existed on the date the well permit application was submitted. The operator's engineer shall employ methodologies that constitute generally accepted practices of road replacement, repair, and maintenance professionals undertaking similar project evaluations at the same time, and in the same geographical area. The

city engineer shall then review and accept, or modify the cost estimates in determining the ultimate figure that will constitute the road damage remediation fee.

(Code 2005, § 26-250; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-251. City water service.

If water is purchased from the city, the city may implement water rationing, including service interruption, in the event Stage 1 water restrictions are implemented. The city may terminate water service in the event of emergency water demand.

(Code 2005, § 26-251; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-252. Stormwater pollution prevention plan.

A stormwater pollution prevention plan (SWPPP) shall be required complying with all federal, state and local stormwater quality regulations, including any notice of intent (NOI) and notice of termination (NOT) requirements. A copy of the NOI shall be submitted to the city seven business days prior to the commencement of any on-site activity.

(Code 2005, § 26-252; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-253. Hazardous materials management plan.

The hazardous materials management plan shall be filed with the city engineer, fire marshal and city engineer. The hazardous materials plan shall be kept current with any additions, modifications and amendments concerning all construction related activities and oil and gas operations and production. The plan shall include HAZMAT and fire department response times and updated hazardous materials plans shall be submitted to the city engineer, fire marshal and fire chief within two business days of any additions, modifications, and/or amendments.

(Code 2005, § 26-253; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-254. Material safety data sheets.

All current material safety data sheets (MSDS) detailing each of the hazardous and nonhazardous materials that will be located, stored, transported and/or used at the well site, (including site preparation, boring, completion, fracturing or similar programs). The MSDS shall indicate all types, quantities, volumes and concentration of all additives used in the drilling, completion and fracturing or similar programs.

(Code 2005, § 26-254; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-255. Emergency response plan.

(a) An emergency response plan shall be required and shall use existing guidelines established by the railroad commission, the state commission on environmental quality, state department of transportation and the United States Environmental Protection Agency. The emergency response plan shall be kept current with any additions, modifications and amendments concerning all construction related activities and oil and gas operations and production. Updated plans shall be submitted to the fire marshal and city engineer within two business days after any additions, modifications and amendments are made. A copy of the emergency response plan shall be kept on-site. The emergency response plan shall, at a minimum, provide for all of the following:

(1) Prompt and effective response to emergencies regarding:

a. Leaks or releases that can impact public health, safety and welfare;

b. Fire, explosions, loss of well control or blow out at the well or in the vicinity of the well; and

c. Natural disasters.

(2) Effective means to notify and communicate required and pertinent information to local fire, police, and public officials during an emergency, including a detailed plan that should address contacting city officials responsible for implementing city policy regarding notification and evacuation of residents, where necessary.

(3) The availability of personnel, equipment, tools and materials as necessary at the scene of an emergency.

(4) Measures to be taken to reduce public exposure to injury and the probability of accidental death or dismemberment.

(5) Fire department and HAZMAT response times.

(6) An emergency shutdown of an oil or gas well and related site.

(7) The safe restoration of service and operations following an emergency or incident.

(8) A follow-up incident investigation to determine the cause of the incident and require the implementation of corrective measures.

(b) An annual certification and update of the emergency response plan shall be performed by the operator and submitted to the city engineer and fire marshal.

(Code 2005, § 26-255; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-256. Noise management plan.

A noise management plan shall be required complying with all requirements of the city, including, but not limited to, section 26-272, prepared by a noise control engineer or other qualified person approved by the city engineer, for any equipment used in the drilling, completion or production of a well. The noise management plan shall include the following:

(1) Describe the proposed operation and potential noise impacts. This analysis must include a comparison of the potential noise generation with the applicable noise standards;

(2) Establish the ambient noise level for both the daytime and nighttime hours over a minimum of 48 hours;

(3) Identify all noise mitigation techniques that will be implemented at the site, including blankets/curtains, sound walls, and mufflers for generators and motors;

(4) Describe best management practices that will be implemented to reduce the impact of noisier operations such as pipe deliveries, use of horns for communication, tripping and fracturing;

(5) Mitigation of pure tone and low tone frequency noise; and

(6) Maximum noise levels anticipated at the well site.

(Code 2005, § 26-256; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-257. Screening, fencing and landscape plan.

(a) The screening, fencing and landscaping plan required as a component of any well permit application, as well as the plan's implementation, shall comply with the requirements of this section.

(b) The permanent screening of a site shall consist of a landscaped enclosure with a minimum height of eight feet and a maximum height of ten feet. The enclosure must be installed along the entire perimeter of the site. Low-profile equipment or facilities shall be used on the site.

(c) Permanent screening shall comply with the following:

(1) A site shall be enclosed with either a wrought iron fence with a double row of dense evergreen plantings, each row staggered to form a solid screen that is at least eight feet tall at the time of planting, or a screening wall constructed of at least two complimentary masonry construction materials with nondwarf variety shrubs planted three feet on center, with a minimum height of three feet at planting and reaching a mature height of at least six feet. For the purpose of this subsection, "masonry construction material" shall mean brick or natural or manufactured stone units at least two inches thick, laid up unit by unit and set in mortar.

(2) The type and dimensions of a fence or wall and plantings for the enclosure shall be approved as proposed by the applicant or may be modified as deemed appropriate by the city council or city engineer, depending on the type of well permit sought.

(d) A fence or wall required under this section shall meet the following:

(1) Fences or walls shall be designed by a state registered design professional based on soil analysis and geotechnical data. The operator shall submit plans sealed by the registered design professional indicating the design specifications of the fence or wall. Upon completion of the fence or wall, the operator shall provide a letter to the city sealed by the registered design professional certifying that the fence or wall was installed according to the design specifications.

(2) A fence or wall that is leaning by ten degrees or more beyond plumb or is missing portions of the fence or wall panels shall be considered structurally unsafe and a hazard to safety, health and public welfare. Should the city determine that the fence or wall is structurally unsafe, the operator shall commence repairs or replacement of the fence or wall within 48 hours of receipt of written notice from the city.

(3) Examples of an appropriate screening wall and landscape scheme.

[GRAPHIC]

(e) Trees shall be planted around the site in the following proportion: A maximum of 70 percent of the trees shall be at least 3 1/2 caliper inches, and a minimum of 30 percent of the trees shall be at least five caliper inches. Trees shall be of an evergreen variety and container grown.

(f) Trees shall be planted in a manner so as to achieve a more natural appearance. The number of required trees shall be established at a rate of one tree for each 25 linear feet along each side of the site.

(g) The permanent screening, landscaping and irrigation shall be installed within 120 days from setting surface casing on the first well on a site. Irrigation shall be designed to ensure that water is evenly distributed to the soil on the interior and exterior sides of the screening wall or fence.

(h) A temporary chain-link fence or other approved type of fence with a minimum height of six feet shall be required around a well site until the permanent screening has been installed in accordance with this section. The fence shall have slats that provide 90 percent opaqueness.

(i) Other screening and landscaping materials may be approved by the city council or city engineer, depending on the type of well permit sought.

(j) A wrought iron or ornamental gate shall be required for any entrance to the site. The gate shall have no openings greater than four inches in width.

(k) The operator shall be responsible for maintaining all landscaping in a healthy, neat, orderly and live-growing condition at all times.

(l) The raw soil in disturbed areas or embankments around each well site shall be seeded or covered with grass, which shall be maintained in a healthy and live-growing condition.

(Code 2005, § 26-257; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-258. Landscape irrigation plan.

A landscape irrigation plan shall be required, designed by a state licensed landscape architect or licensed irrigator detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation. All trees on site shall be irrigated by a bubbler system.

(Code 2005, § 26-258; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-259. Evacuation plan.

A detailed evacuation plan shall be required addressing the evacuation strategy for a school, hospital building, senior living facility, assisted living and/or nursing care facility or childcare facility if any such facility will be located within one-half mile of the edge of the proposed well site; and, a detailed list of all residences to be notified in the event of an evacuation, including, without limitation, all persons residing within one-half mile (2,640 feet) of the edge of the proposed well site. The plan should address the methods that the operator will employ to notify the city in a timely manner that an event requiring evacuation has occurred, as well as the methods that will be employed to maintain a current, up-to-date, notification list. The plan shall also include an evaluation of alternate access points for ingress or egress to the well site, other than the primary drive.

(Code 2005, § 26-259; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-260. Leak detection and compliance plan.

A leak detection and compliance plan (LDCP) shall be required to ensure that all site activities and equipment are in compliance with applicable rules and regulations. The LDCP shall include methodology to assess and evaluate the impact of drilling, production and other activities at the well site and immediate surroundings. Specific elements shall include, but are not limited to, a leak detection monitoring program; methods and equipment for emission measurements; site inspection activities; continuous distance monitoring through the use of a supervisory control and data acquisition (SCADA) plan; a response plan to address emergency issues if they arise; and any other information required by the city engineer. Monitoring should include evaluation of potential impact to air, soil, surface water and groundwater. In addition to other reporting requirements established by this division, annual reporting of the monitoring results to the city is required with all laboratory data sheets, field logs, data summary, and actions taken in the previous monitoring period. The plan must be created in accordance with city-mandated guidelines and address the manner in which periodic inspections by a third party will occur to ensure compliance with the LDCP plan goals.

(Code 2005, § 26-260; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-261. Lighting plan.

A site lighting plan shall be required, designed to promote the safety of nighttime operations. The plan should include a photometric plan, indicating the type and color of light to be used at the well site.

(Code 2005, § 26-261; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-262. Supervisory control and data acquisition (SCADA) plan.

A supervisory control and data acquisition (SCADA) plan shall be required and shall outline how data from the well site will be continuously collected in a real-time manner and how this data is monitored. Data shall be collected at every stage of the oil or gas drilling and production process. The plan shall address how the SCADA system will control factors such as leakage, fire, emergency shut-down, oil or gas flow rate and accumulated flow, line pressure, detection and control, well-head pressure, pump status, tank level and other critical factors defined by the city. In addition, the plan should define the equipment, sensors, hardware, communication interfaces (radio, wire, fiber optic and microwave) and electro-mechanical devices that will be employed and how these devices will function during an emergency situation.

(Code 2005, § 26-262; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-263. Periodic reports.

(a) The operator shall notify the city engineer of any change to the following information within one business day after the change occurs:

(1) The name, address, primary e-mail address and phone number of the operator;

(2) The name, address, primary e-mail address and 24-hour phone number of the person with supervisory authority over drilling or operations activities;

(3) The name, address, primary e-mail address and phone 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

(4) The operator's emergency response plan.

(b) The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission or any other state or federal agency within 30 days after the operator has notice of the existence of such reports or complaints.

(c) Beginning on December 31 after each well is completed, and continuing on each December 31 thereafter until the operator notifies the city that the well has been abandoned and the site restored, the operator shall prepare a written report to the city identifying any changes to the information that was included in the application for the applicable well permit that has not been previously reported to the city.

(d) Beginning on December 31 and annually thereafter each operator shall provide an operational status report to the city for every well permitted by the city. The report shall include the well name, API number, lease name, city case number, railroad commission permit number, railroad commission lease ID number and current well status, whether pending, drilling, completing, producing, plugged or abandoned.

(Code 2005, § 26-263; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-264. Public information.

The operator of a well subject to a high impact well permit shall comply with the following requirements regarding the provision of public information:

(1) After approval of a high impact well permit application, the operator shall submit to the city engineer an accurate written timeline account of all planned operational events associated with the well. The account must be updated monthly and must thoroughly describe the events that will occur. Events to be documented shall include, but are not limited to, site preparation and grading, site construction of the drilling rig and accessory structures, the expected amount of time spent drilling on-site, all casing installation,

testing, disassembly of the drilling rig, pipeline installation, well stimulation, maintenance, installation of production facilities, site clean-up and production.

(2) Within 15 days of approval of a high impact well permit, the operator shall submit an educational letter to the city engineer detailing typical operations associated with oil and gas drilling activity, written with an intended audience of the general public. The topics to be detailed shall include, but are not limited to, site preparation, site development and construction, drilling, casing, well stimulation, pipeline construction, production, transportation, and general weekly, monthly and yearly maintenance of the operation site. The letter will be published on the city's web site and further dissimulated using social media for the benefit of the public.

(Code 2005, § 26-264; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-265--26-269. Reserved.

DIVISION 5. ON-SITE AND TECHNICAL REGULATIONS

Sec. 26-270. Well and pipeline setbacks.

(a) No well shall be permitted within 1,000 feet of a residence, religious institution, hospital building, or school, except in accordance with the following:

(1) A well shall be permitted as close as 300 feet to any residence, religious institution, hospital building, or school, if all affected property owners within 1,000 feet of the well consent in writing.

(2) For the purpose of subsection (1) of this section, the term "affected property owner" shall mean the then-current owner of the residence, religious institution, hospital building, or school at the time the well permit application is filed.

(3) Consent in writing shall be upon such forms prepared by the city engineer and shall require the notarized signature of the affected property owner. In no event shall an executed oil and gas lease for development of minerals beneath the affected residence, religious institution, hospital building, or school constitute consent, for the purposes of this section.

(b) No well may be located within 100 feet of a railroad right-of-way.

(c) In addition to obtaining written permission from affected property owners in accordance with subsection (a)(1) of this section, an operator shall give written notice, in a form acceptable to the city engineer, to the tenants or lessees of any residential structure, such as a manufactured home or a rental property, located within 1,000 feet of the proposed well for which the operator is making an application for a well permit. Such notice shall be sent by certified mail, return receipt requested, and by first class U.S. Mail. The operator shall provide copies of the return receipts and an affidavit certifying that notice has been sent to the above-referenced tenants or lessees.

(d) No pipeline except low-pressure distribution system pipelines as defined herein shall be installed nearer than 50 feet to any residence or commercial building.

(e) No residential, commercial or industrial structure other than structures necessary to operate the pipeline shall be erected or moved to a location nearer than the distance required under the city's subdivision ordinance (Appendix B to this Code), as it may be modified or amended.

(f) No residential, commercial or industrial structure should be permitted to be built nearer than 150 feet from any well or related facility other than structures necessary to operate the well or facility.

(Code 2005, § 26-270; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-271. Efficient use of surface.

It is the intent of this section to encourage efficient surface land use by requiring compact and centrally located well development that minimizes the total amount of surface area needed for well facilities and avoids the creation of unusable strips and parcels. In order to implement this requirement, each operator shall, to the extent permitted by railroad commission spacing rules, strive to co-locate well equipment in order to serve multiple well sites.

(Code 2005, § 26-271; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-272. Noise regulations.

(a) The engines used in connection with the drilling of any well and/or any production equipment shall be equipped with an exhaust muffler, or an exhaust muffler box, sufficient to suppress noise and to prevent the escape of obnoxious gases, fumes or sparks or ignited carbon or soot.

(b) The operation of oil field production equipment, with the exception of equipment located in industrial zones set forth in the zoning regulations, shall not increase the ambient noise level at any given time by more than five decibels in any octave band, when measured at a distance of 50 feet from the oil field production equipment in question.

(c) The "ambient noise level," for the purpose of this section, shall be the average of sound level meter readings taken consecutively at any given time from four or more diametrically opposite positions within an area of not more than 500 feet, nor less than 200 feet from the oil field production equipment in question; all such readings shall be taken at such distance and in such a manner so as to obtain the surrounding noise level as distinguished from the noise level produced by the oil field production equipment. However, if the ambient noise level is less than 60 decibels, the production equipment shall not generate a noise level in excess of 60 decibels measured at a distance of 50 feet from such equipment. This section shall not apply to production equipment located 1,000 feet or more from the nearest occupied dwelling (except a dwelling occupied in connection with such oil field operations); and shall not generate a noise level in excess of 80 decibels at a distance of 50 feet from such production equipment. All sound level meter performance, including definitions and units, shall be in accordance with American Standards Association standards Z-24.1, Z-24.2 and Z-24.3, copies of which are on file in the office of the city secretary.

(d) No person, either as owner, agent or operator, shall conduct any drilling or re-drilling operations on any well located within 750 feet of any residential or commercial district if the sound pressure level of the drilling operation exceeds 60 dB(A) when measured at the nearest residential or commercial property line, unless all derricks and all drilling machinery which produce noise and which are used in connection with such drilling or re-drilling operations are enclosed with soundproofing material as provided in this section, and such soundproofing material shall be maintained in a clean and serviceable condition.

(e) No person, either as owner, agent or operator, shall conduct any drilling or re-drilling operations on any well located more than 750 feet from any residential or commercial district if the sound pressure level of the drilling operation exceeds 60 dB(A) when measured at the nearest residential or commercial property line, unless either:

(1) All derricks and all drilling machinery which produce noise and which are used in connection with such drilling or re-drilling operations are enclosed with soundproofing material as provided in this section; or

(2) Drilling or re-drilling operations are confined to daytime hours, except with the written permission of the city engineer.

(f) When soundproofing is required by the provisions of this section, such soundproofing shall comply with the following minimum specifications:

(1) Soundproofing acoustical blankets for the drilling derrick and accessory structures shall be fibrous glass insulation 1 1/2 inches thick, one-half pound per cubic foot density, 0.063 pounds per square foot weight, 0.00010 to 0.00015 fiber diameter (inches) with a phenolic binder having a temperature limit of 450 degrees Fahrenheit sewed between layers of fire-retardant vinyl fiberglass cloth, 15 to 17 ounces per square yard sewed with Dacron thread D-92 with stitches not more than six to the inch.

(2) The lacing cord shall be flat vinyl-coated tape composed of fibrous glass yarn braided, heat set and bonded. The tape shall have a 90-pound tensile strength. Grommets shall be No. 4 brass. All doors and similar openings shall be kept closed during drilling operations, except for ingress and egress.

Alternate materials or methods of soundproofing may be used, provided that such alternative materials or methods have been approved by the city engineer. The city engineer may approve any such alternative if he finds that the proposed materials and methods offered are, for the purposes intended, at least the equivalent of that prescribed by this section, in quality, strength, effectiveness, fire resistance, durability and safety. The city engineer may require the submission of evidence to substantiate any claims that may be made regarding the use of such alternative. In order to substantiate claims for the use of alternate materials or methods, the city engineer may require tests as proof of compliance to be made at the expense of the operator. Test methods may be specified by the city engineer.

(g) Any person required to soundproof any well or curtail drilling or re-drilling operations pursuant to the provisions of this section may apply for a variance to the city council in accordance with section 26-220 for relief therefrom on a showing that no other person within 1,000 feet of such well is harmfully affected or annoyed as a result of the noise produced from the drilling or re-drilling operations.

(h) No well shall be drilled on any property that is utilized for recreational purposes, without the express written consent of the property owner. For the purposes of this section, the term "recreational purposes" shall include, but not be limited to, land devoted to recreational or leisure pursuits, such as playing fields or courts, publicly or privately owned parks or open space reserves, or publicly or privately owned and operated golf courses, driving ranges, or lakes. To the greatest extent practicable, slant drilling shall be utilized to access reserves under such recreationally used land, and such shall be given extra consideration by council when considering permits for land adjacent to recreationally used land.

(Code 2005, § 26-272; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-273. Derrick and rigs.

It shall be unlawful and an offense for any person to use or operate in connection with the drilling or reworking of any well within the corporate limits of the city any wooden derrick or any steam-powered rig, and all engines shall be equipped with adequate mufflers approved by the inspector. The drilling rig or derrick shall be removed from the premises within 30 days from the date of completion of the well, and thereafter, when necessary, such completed well shall be served by portable rigs, which shall be removed from the premises within 15 days from the completion of the servicing operation. At all times from the start of erection of a derrick or a mast, or a gin pole, until the well is abandoned and plugged or completed as a producer and enclosed as provided in this division, the operator shall keep a watchman on duty on the premises or a regular scheduled patrol at all times when other workmen of such operator are not on such premises.

(Code 2005, § 26-273; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-274. Pits.

The operator shall install and use a closed loop mud system and may not use slush, reserve or produced water pits, whether lined or not.

(Code 2005, § 26-274; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-275. Operations and equipment.

(a) All drilling and operations at any well performed by an operator under this division shall be conducted in accordance with the practices of a reasonable and prudent operator. All casing, valves and blowout preventers, drilling fluid, tubing, brandenhead, Christmas tree, and wellhead connections shall be of a type and quality consistent with such practice. Setting and cementing casing and running drill stem tests shall be performed in a manner and at a time consistent with the practices of a reasonable and prudent operation. Each operator under this section shall observe and follow the regulations of the railroad commission.

(b) All operations relative to the design, installation, maintenance and operation of pipelines shall conform to the requirements of this division, state and federal law, or applicable code.

(c) All pipelines to be constructed in the city shall be tested prior to being placed in operation and the standard for testing will be the applicable state or federal codes. Valves shall be installed on all pipelines at such locations and spacing to safely and adequately control the operation of the line and to minimize the quantity of gas, oil or water that would be released from the line in case of line failure or rupture. The types and locations of all valves shall be indicated on a plan layout and as approved by the city engineer.

(d) Internal combustion engines or electrical equipment may be used in the drilling or pumping operations of the well, and if internal combustion engines are used, mufflers shall be installed on the mud pumps and on the engines so as to reduce noise to a minimum, all of such installations to be done in a manner satisfactory to the city engineer and all electrical installations to be done in a manner satisfactorily conforming with the applicable electrical code. Drilling operations must be conducted in such a manner that percolating water or groundwater will not be adversely affected, including the prevention of vertical movement of percolating water.

(e) Pipeline location markers shall be approved as to type and location by the applicable code.

(f) Design of pipelines crossing certain thoroughfares shall be subject to the approval of the city engineer.

(g) Except in the case of an emergency, no materials or equipment such as tools or pipes used for production or maintenance operations shall be delivered to or removed from the drilling site except during daytime hours on any day.

(h) Adequate firefighting apparatus and supplies shall be maintained on the drilling site at all times during drilling and production operations. No refining process or any process for the extraction of products from natural gas shall be carried on at the well site, except that separators may be maintained on the drilling site for the separation of liquids from natural gas.

(i) All production equipment used shall be so constructed and operated that no noise, vibration, dust, odor or other harmful or annoying substances or effects which can be eliminated or diminished by the operations are carried on at any well site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in methods of production shall be adopted as they from time to time become available, if capable of reducing factors of nuisance or annoyance. There shall be no unnecessary venting of gas into the

open air. In the event of pumping units, no internal combustion engines are to be used except when approved by the city engineer.

(j) All injection wells shall be equipped in such a manner as to protect the existing fresh water supply and operated in compliance with the rules of the state railroad commission and the Texas Commission on Environmental Quality (TCEQ), or their successor agencies.

(k) Any operator operating an injection well shall conduct a 24-hour test for the purpose of determining the pressure differential between the surface pipe and the injection string of such well during each six calendar months and shall submit a report of such test to the city within ten days thereafter. If such test indicates a casing leak or communication between strings, the well shall be shut down immediately and corrective action taken.

(l) The well site shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the well or pipelines from the well or the production facilities allowed on the site.

(m) The city engineer shall inspect annually and at such other times as he deems necessary each active well and suspended well regulated by this division for the purpose of ascertaining whether the well is being operated or maintained in conformity with the minimum standards of this division. To meet the expense of such inspection, the operator shall pay to the city an annual inspection fee in the amount set by resolution and printed in Appendix D to this Code. The year for which each fee is applicable runs from July 1 to June 30. The fee shall be based upon the total number of wells in existence (whether active or not) on July 1. The fees shall be due no later than July 1 of the year to which they pertain. A reinspection fee shall be charged for each additional inspection required in the amount set by resolution and printed in Appendix D to this Code. The city engineer shall keep a permanent, accurate account of all annual inspection fees collected and received under this division, the name of the operator for whose account such fee was paid, the date and amount thereof, together with the well name and description and the general location of the well.

(n) No drilling, re-drilling, work or construction shall be done beyond the point indicated in each successive inspection without first obtaining the written approval of the city engineer and without giving notice within 48 hours prior to any work as described in this section is commenced, such notice to be given to the city dispatcher.

(1) *Site preparation.* The operator shall not commence drilling until the well location has been cleared and marked by a stake and inspected by the city engineer and approved in writing.

(2) *Commencement of drilling.* The city engineer shall be called and notified when the drilling derrick or mast has been erected and all necessary equipment to drilling operations has been installed.

(3) *Completion of drilling.* Upon completion of drilling operations, a site inspection request shall be called for and obtained within 30 days after completion of drilling operations.

(4) *Abandonment.* Any operations conducted in connection with the plugging or abandonment of any well shall be in compliance with all applicable rules promulgated by the railroad commission or other regulatory agency with jurisdiction, with suitable evidence of compliance submitted to the city.

(5) *Running and cementing pipe.* All running and cementing of pipe shall be in compliance with the rules of the railroad commission.

(Code 2005, § 26-275; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-276. Cleanliness and sanitation.

The premises where work is being performed under the terms of this division shall be kept in a clean and sanitary condition, satisfactory to the city engineer. The operator shall take reasonable precautions to prevent any mud, wastewater, oil, slush, or other waste matters from flowing into the alleys, streets or lots within the corporate limits of the city. However, should any of such materials flow into the alleys, streets, lots or leases within the corporate limits of the city, the owner or operator whose equipment is at fault will immediately, or as soon as possible, restore the damaged area as nearly as possible to its original or former condition.

(Code 2005, § 26-276; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-277. Storage tanks; separators.

It shall be unlawful and an offense for any person to use, construct or operate in connection with any producing well within the city limits any crude oil storage tanks, except to the extent of two tanks for oil storage, not exceeding 1,000 barrels capacity for each completion connected thereto, and so constructed and maintained as to be vaportight and properly vented. An operator may use, construct and operate a steel conventional separator, and such other approved tanks and appurtenances as are necessary for separating oil water mixtures and treating oil, with each of such facilities to be so constructed and maintained as to be vaportight. Each oil/gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head. Such tanks may be placed either underground or aboveground, and if aboveground shall be placed upon a suitable earth or concrete pad, and meet the following requirements:

(1) The use of a central tank battery is permitted so long as not more than two tanks as specified in this section are used for each well connected to the battery.

(2) The tank or tanks shall be enclosed within a conventional type firewall constructed of compacted earth. Sufficient water shall be used during the firewall construction to ensure adequate compaction. The firewall enclosing the tanks shall be of adequate size to contain 1 1/2 times the capacity of the tanks.

(3) The location of the tank site shall be approved by the city engineer.

(4) The tanks shall be recessed within the firewall enclosed to such depth as will ensure them of being practically sight clear when viewed from without the fenced enclosure and painted dark green or brown.

(5) The separators shall be installed in a manner that will ensure them of being practically sight clear when viewed from without the fenced enclosure and painted dark green or brown.

(Code 2005, § 26-277; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-278. Fire prevention.

(a) Any operator engaged in the drilling or operation of any oil and/or gas well or the operation of any facility used in conjunction with the production of oil and/or gas within the corporate limits of the city shall take reasonable precautions to prevent gas from escaping into the air, and shall not flare or burn gas from a torch or any similar means within the corporate limits of the city, provided that gas may be burned for a limited time when necessary to complete any oil and/or gas wells, so long as such burning does not constitute a fire hazard to the property of others within the vicinity of such oil and/or gas well.

(b) It shall be unlawful to operate a well for oil and/or gas without a four-inch header being laid over the top of the tank and a 2 1/2-inch line extending from the tank battery to a point designated by the city engineer. The manner and method provided for connection at such point shall be determined by the fire department so that foamite or other chemicals may be pumped

through such line or lines and the header of the tanks into such tanks to extinguish fires in the tanks.

(c) Emergency firefighting apparatus and supplies, subject to the approval by the fire department, shall be maintained on the drilling site at all times during the drilling operations, and on the site of each compressor used for gas injection operations.

(Code 2005, § 26-278; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-279. Street and alley obstructions; permits.

No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is within any of the streets or alleys of the city and/or streets or alleys shown by the comprehensive master plan of the city, and no street or alley shall be blocked or encumbered or closed by any drilling, production or pipeline operation except by written approval of the city.

(Code 2005, § 26-279; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-280. Site security.

(a) At all times after the permanent screening is in place around a well site, a minimum of one security camera shall be mounted inside the enclosure of well sites located within a 1,000-foot radius of residential subdivision or public park. Signs shall be posted on the fence or wall of the site to indicate that activity on the site may be recorded by video surveillance. Camera systems shall be maintained in proper operating condition and shall be designed and located so as to meet the following requirements:

(1) Capture clear video images (day and night) of all traffic entering and exiting the gate;

(2) Capture clear video images (day and night) of all production equipment located on the site;

(3) Be equipped with motion detection technology;

(4) Be equipped with panning technology to pan immediately to any motion detected on the site;

(5) Show the date and time of all activity on the footage; and

(6) Be capable of being viewed remotely at the monitoring facility.

The operator shall maintain video data for a period of 72 hours. At the request of the city engineer or the fire marshal, the operator shall provide to the city any recorded views of the enclosed area.

(b) Within ten days of completion of the perimeter fencing, the operator shall install a fully operational security system that meets the following requirements:

(1) The operator shall install and maintain at all vehicular gates in the perimeter fencing a remotely monitored control access system. The system shall meet the following requirements:

a. The system shall be monitored by a central monitoring facility capable of monitoring security related alarm systems and meeting all required state and federal guidelines. The central monitoring facility shall be staffed and operational at all times.

b. Gate access shall be secured by an access control system with an unlocking and re-locking mechanism that requires a card, numeric code or other identification device for gate operation. The system shall record the identity of the entering party and the date and time of such entry.

c. The system shall include a gate closure contact sensor that will be activated when the gate closure sensor is violated in any manner by nonidentified access. The

system shall be equipped to signal a control panel which activates an on-site audible signal and registers at the monitoring facility when an access breach is detected.

d. The security system shall include an open gate detection alarm to notify the monitoring facility if the gate closure sensors, once accessed, are not closed and thereby reactivated within five minutes of being opened.

e. The operator shall equip all gates with a motion sensor, weight sensor or other device to unarm the gate for vehicles exiting the site.

(2) The operator shall install an exit-only gate for personnel near the vehicular gate entrance.

(3) The operator shall obtain an alarm permit for the alarm system from the police department in accordance with the city's alarm ordinance. The monitoring facility shall notify the operator and the police department in case of security breach at the well site. The operator shall respond on-site with an authorized representative within 45 minutes of notification of alarm. Fees for false alarms shall be as set by resolution and printed in Appendix D to this Code. The city engineer may suspend the well permit of any operator responsible for more than 20 false alarms in any calendar year.

(4) The operator shall install and maintain an audible alarm system at each well site to provide warnings for a substantial drop in pressure, the release of any gas or oil, or fire. Said alarm system shall be approved by the fire chief or his/her designee prior to beginning any drilling or production operations.

(Code 2005, § 26-280; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-281. Equipment appearance.

All production equipment shall be painted and maintained in proper working condition at all times, including, but not limited to, wellheads, pumping units, tanks, and buildings or structures. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of brown, or other neutral colors approved by the city engineer.

(Code 2005, § 26-281; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-282. Disposal wells.

No salt or wastewater disposal wells shall be located within the city.

(Code 2005, § 26-282; Ord. No. 2012-36, § 2, 2-4-2013)

Secs. 26-283--26-289. Reserved.

DIVISION 6. PIPELINES AND COMPRESSOR STATIONS

Sec. 26-290. Natural gas compressor stations.

(a) Natural gas compressor stations shall require a permit issued by the city council and shall be subject to the following requirements:

(1) A building permit shall be required for the compressor station.

(2) The compressor station shall be situated on a platted lot approved by the city and recorded in the county records.

(b) For the purpose of maintaining a visual buffer zone adjacent to dissimilar land uses, a minimum building setback for all compressor station buildings and equipment shall be established and maintained for all yards at the distances specified for the zoning district adjoining the compressor station as shown below.

(1) Table of building setbacks for compressor station buildings and equipment.

Adjoining Zoning District (applied to both base zoning and PUD districts)	*Required Building Setback (in feet--applied to all yards)*
SFR, SFR-E, MFR-GHD, MFR-L	500
MFR-M, MFR-H, MHR, CSC, NC LNC	200
OPD, DD, A-1, L-1, I, BP	100

(2) Where an adjoining planned unit development (PUD) district contains more than one base zoning district, the most restrictive building setback shall be applied.

(3) Where a compressor station site adjoins a street right-of-way, the required building setback along that right-of-way shall be established by the zoning district designated for the property situated on the opposite side of the right-of-way.

(c) A wrought iron-type fence of sufficient height to obscure the entire station complex from public view shall be required along boundary lines that front a dedicated public street right-of-way of any type. Brick or stone columns shall be constructed on approximate 50-foot centers for such fence.

(d) All compressor station equipment and sound attenuation structures shall be enclosed within a building. Such building shall be designed with the following elements:

(1) A four-foot high masonry bulkhead wall shall be constructed on at least the two building facades most visible to the public.

(2) At least two building facades, specifically those most visible to the public, shall be constructed with a brick or stone accent that is at least 20 feet in width, and extends vertically to the roofline of the building and terminates with a sloped or arched profile.

(3) The roof shall be sloped with a pitch of no less than 5:12 and shall contain at least one raised structure in the form of a cupola, steeple tower, clearstory element or similar structure. No flat roofs shall be permitted.

(4) The nonmasonry wall surfaces may be constructed of painted metal, stucco or cementitious fiberboard material. Engineered wood paneling shall not be permitted for the finished exterior.

(5) The architectural design of the building shall be compatible with the visual context of the surrounding development. The building may be designed as a representation of, but not be limited to, the following building types:

a. Barn structure or equestrian facility.

b. Estate residence.

c. School facility or similar institutional use.

d. Gazebo or picnic area enclosures.

e. Club house or recreational facility.

f. Retail or office building.

g. Any combination of the above as approved by the city.

(e) Vehicular access to the boundaries of the compressor station site from the street thoroughfare shall be paved with a concrete surface at a thickness and design approved by the city engineer. This provision shall also apply to those areas inside the boundaries of the compressor station site where vehicular traffic and parking is to occur.

(f) The operation of the equipment shall not create any noise that causes the exterior noise level to exceed the predevelopment ambient noise levels as measured within 300 feet of the compressor station building. The compressor station operator shall be responsible for establishing and reporting to the city the predevelopment ambient noise level prior to the issuance of the building permit for the compressor station.

(g) The compressor station site shall be landscaped in a manner that is compatible with the environment and existing surrounding area.

(Code 2005, § 26-290; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-291. License for conduits on streets and alleys.

(a) No person shall make any excavations for any purpose or construct any lines for conveyance of fuel, water or minerals on, under or through the streets or alleys of the city without the express permission of the city council in writing, and then only in strict compliance with the ordinances of the city.

(b) The pipeline shall be tested in accordance with the current railroad commission regulations in accordance with the appropriate pipeline codes.

(c) The companies responsible for any and all pipelines now existent or to be installed within the corporate limits of the city are hereby required to furnish the city as-built plan drawings, along with design data showing test pressure, cathodic protection details, pipe size, wall thickness, type of pipe, operating pressure, depth, monitoring equipment, and control system details for all their facilities for permanent record with the city. Such information shall be supplied in the formats as prescribed by the city engineer. The requirements of this section shall not apply to those pipelines with a mineral lease used for gathering, injection, or other such lines associated with oil and/or gas production.

(d) All pipelines within the corporate limits of the city, other than utility lines of the city and the franchise distribution system of the franchisee, designed or utilized to transport oil, gas or water in connection with the production and transportation of oil and/or gas or for repressurizing operation, shall be installed with the minimum of cover or backfill specified by the applicable code, state or federal law for such pipelines.

(e) The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any street, or leaving upon any street any earth or other material or obstruction, shall not be permitted unless the persons desiring to perform such work shall first have obtained written permission from the city engineer.

(f) The following are exceptions to this section:

(1) Work done in new developments of the city by utility and street contractors under and in conformity with the city's subdivision policy.

(2) Work done by the city or under city contract and under directions of the city.

(3) Work done by public utility companies who operate under a current franchise for the city is exempt from the bond and insurance provisions of this section, when such work is in connection with the distribution of the product of such utility.

(4) Work done by plumbers who are qualified and bonded with a valid license from the state is exempt from the bond and insurance provisions of this section, but must comply with the balance of the provisions of this division.

(g) No permit for construction within public rights-of-way shall be issued unless the written application is accompanied with plans and descriptions, and unless such plans and descriptions are approved by the city engineer.

(Code 2005, § 26-291; Ord. No. 2012-36, § 2, 2-4-2013)

Sec. 26-292. Permits.

(a) An application shall be required for the installation of a pipeline. The application shall include all information required by this division, including the following:

(1) Date of the application.

(2) Name, address and primary e-mail address of applicant.

(3) Name, address and primary e-mail address of pipeline operator, including representative to contact for operations after installation.

(4) Name, address and primary e-mail address of installation contractor.

(5) The name, address and primary e-mail address of person to be notified in case of emergency (24-hour).

(6) Operations control center 24-hour contact number and location.

(7) Proposed route for the pipeline, including specific locations for any drill sites, wells, gathering lines, distribution lines, valves, and control station facilities.

(8) Type of installation method.

(9) Type of equipment to be used during installation.

(10) Detailed design drawings certified by a professional engineer licensed in the state with all basic design criteria for the pipeline, including, but not limited to, pipe specifications, valve specifications, alignment maps, depth of cover.

(11) A copy of the approved permit from state railroad commission (W-1, T-4).

(12) The city ROW construction permit.

(13) Right-of-way permits for crossing any Galveston County drainage district, Harris County flood control district, and Corps of Engineers drainage easements.

(14) Permission from land owner for crossing any property or easements not owned by the city.

(15) Insurance for replacement cost for damages as a result from pipeline installation.

(16) A filing fee in the amount set by resolution and printed in Appendix D to this Code.

(17) The proposed pipeline fact sheet.

(b) The application shall be insufficient if the data therein fails to set forth such information and details as to reasonably assure the city that all provisions have be complied with and that the health, safety and welfare of the residents of the city will not be endangered by the design, operations and methods from the proposed pipeline.

(Code 2005, § 26-292; Ord. No. 2012-36, § 2, 2-4-2013)

Chapters 27--29

RESERVED

Chapter 30

FIRE PROTECTION AND PREVENTION*

***State law reference**—Public safety, V.T.C.A., Local Government Code ch. 341 et seq.; safety, V.T.C.A., Health and Safety Code ch. 751 et seq.; home rule municipality, fire department, V.T.C.A., Local Government Code § 342.011; appointment of fire protection personnel, V.T.C.A., Government Code § 419.032; fire regulations, V.T.C.A., Health and Safety Code ch. 791 et seq.

ARTICLE I. IN GENERAL

Sec. 30-1. Arson reward.

The city hereby offers a reward of $500.00 for the arrest and conviction of any person or persons found guilty of committing the crime of arson within the city. This reward is a standing offer, and shall be paid out of the general fund of the city.

(Code 1974, § 7-1; Code 1994, § 30-1; Code 2005, § 30-1)

State law reference—Crime of arson, V.T.C.A., Penal Code § 28.02; crime stoppers, V.T.C.A., Government Code ch. 414.

Secs. 30-2--30-20. Reserved.

ARTICLE II. FIRE MARSHAL*

***State law reference**—State fire marshal, V.T.C.A., Government Code § 417.001 et seq.

Sec. 30-21. Office created; appointment.

The office of fire marshal is created. Such office shall be independent of other city departments, and the fire marshal shall report directly to the city manager. Such office shall be filled by appointment by the city manager.

(Code 1974, § 7-24; Code 1994, § 30-26; Code 2005, § 30-21)

Sec. 30-22. Investigations; taking testimony; arrest of offenders.

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 such testimony 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, he shall cause such person to be lawfully arrested and charged with such offense, 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.

(Code 1974, § 7-26; Code 1994, § 30-27; Code 2005, § 30-22)

Sec. 30-23. Summoning witnesses; subpoenaing books; administering oaths.

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

(Code 1974, § 7-27; Code 1994, § 30-28; Code 2005, § 30-23)

Sec. 30-24. Refusal of witness to testify, etc.

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 on 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 such investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as provided in this article, 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.

(Code 1974, § 7-28; Code 1994, § 30-29; Code 2005, § 30-24)

Sec. 30-25. Closing hearing.

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 1974, § 7-29; Code 1994, § 30-30; Code 2005, § 30-25)

Sec. 30-26. Right of entry after fire.

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 such building, which authority shall be exercised only with reason and good discretion.

(Code 1974, § 7-30; Code 1994, § 30-31; Code 2005, § 30-26)

Secs. 30-27--30-55. Reserved.

ARTICLE III. FIRE CODES

DIVISION 1. GENERALLY

Secs. 30-56--30-83. Reserved.

DIVISION 2. INTERNATIONAL FIRE CODE*

***State law reference—**Fire protection, V.T.C.A., Local Government Code § 342.001 et seq.

Sec. 30-84. International Fire Code adopted; amendments.

The International Fire Code, 2012 Edition, including appendices B through J, as published by the International Code Council, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this division, except as follows:

(1) Section 101.1 is hereby amended to read as follows:

101.1 *Title.* These regulations shall be known as the Fire Code of the City of Friendswood, Texas, hereinafter sometimes referred to as "this code."

(2) Section 108 is hereby amended to read as follows:

108 *Board of appeals.* The city zoning board of adjustment and appeals shall act as the fire and life safety code board of adjustment and appeals.

(3) Section 109.4 is hereby deleted in its entirety.

(4) Section 305.5 is hereby added to read as follow:

305.5 Sky lanterns prohibited. Sky lanterns; or other devices that behave as airborne incendiary devices; shall not be used, ignited, flown, or deployed.

(5) Section 508.5.1 is hereby amended to read as follows:

508.5.1 *Where required*. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 300 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the code official.

(6) Section 903.2 is hereby amended to read as follows:

903.2 *Where required*. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section, when the gross square footage of the building or structure exceeds 11,999 square feet, or when the area under one roof is capable of having two or more floors above or below grade with any one floor exceeding 5,999 square feet.

(7) The term "fire chief" will be changed to "fire code official" in the following sections: 503.6; 909.15; 912.2; 912.2.1; 912.3; 912.3.2; C105.1; D103.2.

(Code 1994, § 30-61; Code 2005, § 30-84; Ord. No. 2002-19, § 20, 11-18-2002; Ord. No. 2005-04, § 1, 1-17-2005; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-84), § 5-2-2016)

Sec. 30-85. Applicable definitions.

(a) Wherever the term "municipality" is used in the International Fire Code, it means this city.

(b) Wherever the term "corporation counsel" is used in the International Fire Code, it means the city attorney.

(c) Wherever the term "fire code official" is used in the International Fire Code, it means the fire marshal of the city.

(Code 1974, § 7-8; Code 1994, § 30-62; Code 2005, § 30-85; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-85), § 5-2-2016)

Sec. 30-86. New materials, processes or occupancies which require permits.

The city council, city manager and the fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in the International Fire Code. The fire marshal shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

(Code 1974, § 7-11; Code 1994, § 30-63; Code 2005, § 30-86; Ord. No. 2005-04, § 2, 1-17-2005; Ord. No. 2010-13, § 2, 4-19-2010; Ord. No. 2016-22, § 2(30-86), § 5-2-2016)

Secs. 30-87--30-117. Reserved.

DIVISION 3. LIFE SAFETY CODE

Sec. 30-118. Life Safety Code adopted.

The 2012 Edition of the Life Safety Code, including all appendices thereto, as published by the National Fire Protection Association, Inc., an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this division, except as follows:

Section 24.3.5.1 is deleted of Chapter 24, One- and Two-Family Dwellings, Extinguishment Requirements.

(Code 1994, § 30-76; Code 2005, § 30-118; Ord. No. 2002-19, § 21, 11-18-2002; Ord. No. 2005-04, § 3, 1-17-2005; Ord. No. 2010-13, § 3, 4-19-2010; Ord. No. 2016-22, § 3(30-118), § 5-2-2016)

Sec. 30-119. Appeals.

Whenever the fire marshal shall disapprove an application or when it is claimed that the provisions of the Life Safety Code do not apply or that the true intent and meaning of such code has been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire marshal to the building codes board of adjustments and appeals within 30 days from the date of the decision appealed.

(Code 1994, § 30-78; Code 2005, § 30-120; Ord. No. 90-29, § 3, 11-5-1990; Ord. No. 2010-13, § 3, 4-19-2010; Ord. No. 2016-22, § 3(30-120), § 5-2-2016)

Secs. 30-120--30-138. Reserved.

ARTICLE IV. FIREWORKS*

***State law reference**—Authority of municipality to regulate the use of fireworks, V.T.C.A., Local Government Code § 342.003; state law does not preempt municipal authority to prohibit or regulate use of fireworks, V.T.C.A., Occupations Code § 2154.004; regulation of fireworks and fireworks displays, V.T.C.A., Occupations Code § 2154.001 et seq.; fireworks use, displays and regulations, 28 Tex. Admin. Code § 34.801 et seq.

Sec. 30-139. 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:

Distributor means those who sell fireworks to retailers or to jobbers, for resale to others.

Fireworks, as described in V.T.C.A., Occupations Code § 2154.001(5), means any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration or detonation, such as firecrackers, cannon crackers, skyrockets, torpedoes, Roman candles, sparklers, squibs, fire balloons, star shells, gerbs, or any other substance in whatever combination by any designated name intended for use in obtaining visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks, whether specially designated and defined in this section or not.

Fireworks 1.3G means a large fireworks device:

(1) Primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and

(2) Classified as a 1.3G explosive by the department in 49 CFR 173 (1996).

Fireworks 1.4G means a small fireworks device:

(1) Primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;

(2) That complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 CFR 1507 (1996), or the most recently adopted version of that rule; and

(3) That is classified as a 1.4G explosive by the department in 49 CFR 173 (1996).

Importer means those who import fireworks from a foreign country for sale to distributors, jobbers or retailers within the state.

Jobber means those who purchase fireworks for resale to consumers only.

Manufacturer means persons that are engaged in the making of fireworks.

Person means and includes any natural person, association of persons, partnership, corporation, agent or officer of a corporation, and shall also include all warehousemen, common and private carriers, bailees, trustees, receivers, executors and administrators.

Public display means the igniting and shooting of fireworks for public amusement.

Retailers means those who purchase fireworks for resale to consumers only.

(Code 1974, § 7-46; Code 1994, § 30-91; Code 2005, § 30-139)

Sec. 30-140. General prohibition.

Except as otherwise specifically provided in this article, it shall be unlawful for any person to sell, offer to sell, or have in his possession with intent to sell, keep, use, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

(Code 1974, § 7-47; Code 1994, § 30-92; Code 2005, § 30-140)

Sec. 30-141. Exceptions.

The general prohibition as set forth in section 30-140 shall not apply to the following:

(1) A toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 0.25 of a grain of explosive composition per cap and that is packed and shipped under 49 CFR 173 (1996);

(2) A model rocket or model rocket motor designed, sold, and used to propel recoverable aero models;

(3) A propelling or expelling charge consisting of a mixture of sulfur, charcoal and potassium nitrate;

(4) Novelties or trick noisemakers;

(5) The sale, at wholesale, of any type of fireworks by a resident manufacturer, distributor, importer, or jobber if the fireworks are intended for shipment directly out of state under department regulations;

(6) The sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation or highway use;

(7) The use of a fusee or a railway torpedo by a railroad;

(8) The sale of blank cartridges for:

a. Use in a radio, television, film or theater production;

b. A signal or ceremonial purpose in an athletic event; or

c. An industrial purpose;

(9) The use of a pyrotechnic device by a military organization;

(10) It shall not be unlawful, upon a permit issued by the fire marshal, for any person engaged in any organized play, legitimate theatrical performance, circus or other show designed for the amusement and edification of the general public to use, discharge or cause to be discharged and ignited fireworks as a part of an act, performance, play or circus, so long as such person does not also engage in the retailing, wholesaling, selling or distribution of any of such fireworks. The fire marshal shall cause to be made an investigation of each application made under this article to determine whether the use of such fireworks as proposed shall be of such a character that it may be hazardous to property or dangerous to any person and he shall, in the exercise of reasonable discretion, grant or deny the application for such permit.

(Code 1974, § 7-48; Code 1994, § 30-93; Code 2005, § 30-141)

State law reference—Exemptions from state fireworks regulations, V.T.C.A., Occupations Code § 2154.002.

Sec. 30-142. Public displays exempted.

The provisions of section 30-140 shall not apply to a public display of fireworks made under the terms and conditions of this section, and such display shall be permitted upon compliance with the provisions of this section, as follows:

(1) Any adult person or any firm, copartnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire marshal at least 48 hours in advance of the date of the proposed display.

(2) It shall be the duty of the fire marshal to make an investigation as to whether the display as proposed by the applicant for a permit under this article shall be of such a character that it may be hazardous to property or dangerous to any person, and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. If the application is approved, a permit shall be issued for the public display by the fire marshal. Such permit shall be for a period of time designated on the permit, but shall not exceed 14 days, and the permit shall not be transferable. If the application is denied by the fire marshal, he shall notify the applicant of the denial in writing.

(3) The applicant for a display permit under this section shall, at the time of making application, furnish proof that he carries compensation insurance for his employees as provided by the laws of the state, and he shall file with the fire marshal a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than that required under V.T.C.A., Occupations Code § 2154.205.

(4) The range of aerial displays shall not be more than 200 feet and the fireworks shall be discharged vertically from steel tubes.

(5) The limit of a display authorized by this section shall be not more than 30 minutes per performance, and there shall not be more than two performances in each 24 hours.

(6) No public display of fireworks shall be of such a character and so located, discharged or fired as to be hazardous or dangerous to persons or property, and this determination shall be within the sound discretion of the fire marshal.

(7) The persons handling the display of fireworks under this section shall be competent, adult persons and experienced pyrotechnic operators approved by the fire marshal. No person not approved by the fire marshal shall handle fireworks at the public display. The names of the experienced pyrotechnic operators shall be designated on the permit issued.

(8) For each public display of fireworks under this section, not less than two firefighters of the city shall be in attendance during the display. The expense of such firefighters at the display shall be borne by the applicant for the permit and shall be paid in advance at the time of the application for the permit.

(9) The material to be used for a public display authorized by this section shall not be stored within the city limits, but shall be brought in on the day of the public display and then shall be taken immediately to the place of display for further handling and storage.

(Code 1974, § 7-49; Code 1994, § 30-94; Code 2005, § 30-142)

State law reference—Public display permit, V.T.C.A., Occupations Code § 2154.204; insurance requirement for public display permit, V.T.C.A., Occupations Code § 2154.205.

Sec. 30-143. Illegal fireworks declared nuisance; seizure and destruction.

(a) The presence of any fireworks within the city and within the area immediately adjacent and contiguous to the city limits extending for a distance outside of such city limits for a total of 5,000 feet, in violation of this article, is hereby declared to be a common and public nuisance. The fire marshal is directed and required to seize any fireworks found in violation of this article and any authorized deputy of the fire marshal, or any police officer of the city, or any other duly constituted state peace officer is empowered to stop the transportation of and detain any fireworks being transported illegally or to close any building where any fireworks are found stored illegally until the fire marshal can be notified in order that such fireworks may be seized in accordance with the terms of this article.

(b) Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city, the fire marshal, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the city or within the 5,000-foot area described in subsection (a) of this section. It shall not be necessary to obtain injunctive relief as a prerequisite to seizure of fireworks.

(c) This section shall not apply within any portion of the 5,000-foot area described in subsection (a) of this section which is contained within the territory of any other incorporated city, town or village.

(Code 1974, § 7-50; Code 1994, § 30-95; Code 2005, § 30-143)

State law reference—Extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.001 et seq.; seizure of illegal fireworks, V.T.C.A., Occupations Code § 2154.304.

Sec. 30-144. Penalty for violation of article.

Any person who shall manufacture, assemble, store or possess fireworks in violation of this article shall, upon conviction, be punished for a misdemeanor violation. If fireworks are separately wrapped or packaged, the commission or omission of any act prohibited by this article shall be a separate offense as to each such separately wrapped or separately packaged fireworks.

(Code 1974, § 7-51; Code 1994, § 30-96; Code 2005, § 30-144)

Sec. 30-145. Permitted transportation; identification.

It shall not be an offense under this article for a person to transport fireworks 1.4G, as defined in state law, by motor vehicles which meet the federal requirements for transporting fireworks 1.4G along and upon Farm to Market Road 528, either within the city limits or within 5,000 feet of the corporate boundaries of the city. Vehicles used for transportation of fireworks shall be provided with a sign on each side reading "Fireworks." The sign shall have a white background with red letters at least six inches in height and a minimum width of not less than three-fourths of an inch.

(Code 1974, § 7-52; Code 1994, § 30-97; Code 2005, § 30-145)

Chapters 31--33

RESERVED

Chapter 34

FLOODS*

ARTICLE I. IN GENERAL

Secs. 34-1--34-18. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION*

***State law reference**—Soil and water conservation, V.T.C.A., Agriculture Code ch. 201; emergency management, V.T.C.A., Government Code ch. 418; Flood Control and Insurance Act, V.T.C.A., Water Code § 16.311 et seq.; local rules, V.T.C.A., Water Code § 16.318; local governments must adopt ordinances necessary for jurisdiction to qualify for National Flood Insurance Program, V.T.C.A., Water Code § 16.3145; political subdivision to comply with Federal requirements, V.T.C.A., Water Code § 16.315.

DIVISION 1. GENERALLY

Sec. 34-19. 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:

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

Area of 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 ratemaking has been completed in preparation for publication of the flood insurance rate map (FIRM), zone A usually is refined into zones A, AE, AH, AO, A1-99, VO, V1-30, VE and/or V.

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

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

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

Elevated building means a nonbasement building built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor or, in the case of a building in zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X and D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE or V, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction or *existing structures* 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.

FEMA means the Federal Emergency Management Agency.

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

(1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the flood, mudslide (i.e., mudflow) and related erosion areas having special hazards and which have been designated as zones A, M and/or E.

Flood insurance rate map (FIRM) means an official map of the city, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city.

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 areas 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 being inundated by water from any source (see *Flooding*).

Floodway or *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.

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

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

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished 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 requirements of section 60.3 of the National Flood Insurance Program regulations.

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

Mean sea level means, for purposes of the National Flood Insurance Program, the 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 floodplain management purposes, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs 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. The term "permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, 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-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term "substantial improvement" does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (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 1974, § 4-25; Code 1994, § 34-26; Code 2005, § 34-19; Ord. No. 99-30, § 1, 9-27-1999)

State law reference—Definitions relating to Flood Control and Insurance Act, V.T.C.A., Water Code § 16.313.

Sec. 34-20. Statutory authorization.

The legislature of the state has in V.T.C.A., Water Code § 16.311 et seq., delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain the provisions set out in this article to be its regulations governing flood damage prevention.

(Code 1974, § 4-21; Code 1994, § 34-27; Code 2005, § 34-20)

Sec. 34-21. Findings of fact.

The city finds that:

(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.

(Code 1974, § 4-22; Code 1994, § 34-28; Code 2005, § 34-21)

Sec. 34-22. 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;

(7) Ensure that potential buyers are notified that property is in a flood area; and

(8) Preserve floodplain storage through mitigation.

(Code 1974, § 4-23; Code 1994, § 34-29; Code 2005, § 34-22; Ord. No. 2003-08, § 1, 7-7-2003)

Sec. 34-23. Lands to which this article applies.

This article shall apply to all areas within the jurisdiction of the city.

(Code 1974, § 4-26; Code 1994, § 34-30; Code 2005, § 34-23; Ord. No. 90-19, § 1, 9-20-1990)

Sec. 34-24. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Friendswood, Texas, Galveston and Harris Counties," dated September 22, 1999, with accompanying flood insurance rate map and flood boundary-floodway maps (FIRM and FBFM), and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

(Code 1974, § 4-27; Code 1994, § 34-31; Code 2005, § 34-24; Ord. No. 99-30, § 2, 9-27-1999; Ord. No. 2007-20, § 2, 12-17-2007; Ord. No. 2017-36, § 2, 12-4-2017)

Sec. 34-25. Compliance.

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

(Code 1974, § 4-28; Code 1994, § 34-32; Code 2005, § 34-25)

Sec. 34-26. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance or regulation conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1974, § 4-29; Code 1994, § 34-33; Code 2005, § 34-26)

Sec. 34-27. Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the city council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1974, § 4-30; Code 1994, § 34-34; Code 2005, § 34-27)

Sec. 34-28. 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 city or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1974, § 4-31; Code 1994, § 34-35; Code 2005, § 34-28)

Sec. 34-29. Floodplain administrator--Designation.

The city manager is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

(Code 1974, § 4-32; Code 1994, § 34-37; Code 2005, § 34-30)

Sec. 34-30. Same--Duties and responsibilities.

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 proposed building sites 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 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 state water commission, 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 34-24, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source in order to administer the provisions of division 2 of this article.

(Code 1974, § 4-33; Code 1994, § 34-38; Code 2005, § 34-31)

Sec. 34-31. Development permit--Establishment.

A development permit shall be required to ensure conformance with the provisions of this article. The permit fee shall be set by resolution and printed in Appendix D to this Code. A development permit is required for all development-related activity in the floodplain, including, but not limited to:

(1) Construction of new structures;

(2) Modifications or improvements to existing structures;

(3) Excavation;

(4) Filling;

(5) Paving;

(6) Drilling;

(7) Driving of piles; and

(8) Grading.

(Code 1974, § 4-34; Code 1994, § 34-39; Code 2005, § 34-32; Ord. No. 2003-08, § 2, 7-7-2003)

Sec. 34-32. Same--Procedures.

(a) Application for a development permit shall be presented to the floodplain administrator on a form furnished by him and may include, but not be limited to, plans in duplicate, drawn to scale, showing the location, dimensions and elevation or proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(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 34-61(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) Maintenance of a record of all such information in accordance with section 34-30(1).

(6) A mitigation plan identifying all cut and fill activities occurring within the areas of special flood hazard. This mitigation plan will include all necessary calculations and shall be signed and sealed by a registered professional engineer.

(7) Mitigation activities shall be fully implemented prior to any other development-related activities commence on any given site.

(b) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

(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.

(10) The relationship of the proposed use to the comprehensive plan for the area.

(Code 1974, § 4-35; Code 1994, § 34-40; Code 2005, § 34-33; Ord. No. 2003-08, § 3, 7-7-2003)

Sec. 34-33. Variance procedures.

The following shall regulate variances from the provisions of this article:

(1) The appeal board, as established by the city, shall hear and render judgment on requests for variances from the requirements of this article.

(2) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.

(3) Any person aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places without regard to the procedures set forth in the remainder of this section.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in section 34-32(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted in this section 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.

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Prerequisites for granting variances 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 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, or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(10) Variances may be issued by the city for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria outlined in subsections (1) through (9) of this section are met, and 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 1974, § 4-36; Code 1994, § 34-41; Code 2005, § 34-34)

Sec. 34-34. Stormwater management.

(a) Prior to the issuance of any development permit, except for permits for developments in areas wholly outside areas of special flood hazards where it is determined by the city engineer as unnecessary due to the existence of sufficient available data, the applicant shall submit a hydrological analysis showing the impact and potential adverse effects of increased runoff attributable to such proposed development from a 100-year frequency storm on downstream areas. Drainage improvements shall be required in accordance with the following:

(1) Where new developments do not aggravate downstream flooding problems, they shall not be required to provide either on-site storage or off-site improvements.

(2) Where new developments may aggravate downstream flooding, the developer shall compensate for the increased flood flows by providing downstream improvements which provide capacity to handle the increased flows.

(3) Where downstream improvements may be so extensive as to be uneconomical for the proposed development or not be feasible because of right-of-way or other limitations, new developments may provide on-site storage improvements sized and constructed as to eliminate any adverse drainage impact downstream.

(4) If it is not feasible for new development to analyze all downstream conditions, such new development may provide on-site storage of sufficient capacity to limit the developed peak discharge from the storage systems to that which would have flowed from the

development in its natural undeveloped state. The stormwater runoff rate from a development after its completion shall not exceed the runoff rate for the land area prior to its development as determined by the 100-year frequency storm. Drainage calculations modeled to accomplish this purpose and the inflow-outflow hydrographs supplied for the area will be supplied with construction drawings and along with all other calculations for drainage.

The storage systems designed to accomplish this purpose shall not be closer to any water-bearing strata than one foot and shall have soil borings from a certified laboratory to substantiate this fact, and these results will be supplied with the design engineer's stamp on them to the city engineer before construction can begin. The type and geometrical shape of the storage system is independent and left to the design of the developer's engineer, but should include a cross section for flow up to a five-year frequency storm and the second cross section should be for the storage of additional stormwater to the 100-year interval. The area used for this purpose is to be maintained by the developer.

(b) No development shall proceed until approval has been granted by the city engineer for the plans, specifications and flood control measures for such development as required under this section.

(Code 1994, § 34-42; Code 2005, § 34-35; Ord. No. 90-19, § 2, 9-20-1990)

Secs. 34-35--34-58. Reserved.

DIVISION 2. FLOOD HAZARD REDUCTION

Sec. 34-59. Methods of reducing flood losses.

In order to accomplish its purposes, this division 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 1974, § 4-24; Code 1994, § 34-56; Code 2005, § 34-59)

Sec. 34-60. General standards.

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 and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters; and

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1974, § 4-37; Code 1994, § 34-57; Code 2005, § 34-60)

Sec. 34-61. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 34-33, the following provisions are required:

(1) *Residential construction*. New construction and substantial improvement of any residential structures shall have the lowest floor, including basement, elevated to 24 inches above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in article, 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 24 inches above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review the 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) *Manufactured homes*.

a. All manufactured homes to be placed within zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with subsection (1) of this section.

(Code 1974, § 4-38; Code 1994, § 34-58; Code 2005, § 34-61; Ord. No. 2003-08, § 4, 7-7-2003)

Sec. 34-62. Maintenance of on-site stormwater storage facilities.

(a) In each case where an on-site stormwater storage facility is provided pursuant to this article, the developer shall furnish evidence of acceptance for maintenance of such storage facility

to the Galveston County Consolidated Drainage District (GCCDD), having authority to perform such service. The Galveston County Consolidated Drainage District (GCCDD)will agree to assume such responsibility, provided the developer:

(1) Dedicates to the city and GCCDD an easement over and across such facility;

(2) Dedicates an access easement to such facility to the city and GCCDD; and

(3) Pays to the entity who is maintaining such facilities, whether the city or GCCDD, the estimated cost of maintaining such storage facility for a period of ten years, as stated on the fee schedule in the drainage criteria manual.

Provided further, if the on-site stormwater storage facility is designed to be a "dry" facility and not an amenity or a private recreational facility. Amenity ponds shall be defined as any pond whose land area has been deeded to the homeowners/landowners for the benefit of the homeowners/landowners and are to be maintained by the homeowners'/landowners' association. These ponds shall include "wet ponds" and ponds used for recreational purposes.

(b) For the purposes of this section, the term "stormwater storage facility" means a stormwater storage facility serving primarily as a collection device and not as a transmission system, and which is designed and constructed for the purpose of providing on-site detention for the benefit of a multiparcel development, and not for a single lot or single parcel development.

(Code 1994, § 34-59; Code 2005, § 34-62; Ord. No. 91-7, § 1, 2-26-1991; Ord. No. 98-36, § 1, 1-4-1999)

Sec. 34-63. Special lowest floor elevation requirements.

(a) Notwithstanding any other provision contained in this article to the contrary, in zone AE, lowest floor elevations shall be a minimum of 24 inches above the elevation given on the latest FEMA FIRM panel for the city. When building location falls between elevations, the elevation may be interpolated to the nearest one-half foot.

(b) Notwithstanding any other provision contained in this article to the contrary, in zone AO, lowest floor elevations shall be 36 inches higher than the centerline of the road in curb and gutter streets, or the high bank of a roadside ditch on streets with open ditch drainage.

(c) Notwithstanding any other provision contained in this article to the contrary, in zone X shaded, lowest floor elevations shall be a minimum of 24 inches higher than the adjacent natural grade.

(d) Notwithstanding any other provision contained in this article to the contrary, in zone X unshaded, lowest floor elevation shall be as follows:

(1) On curb and gutter streets, the elevation shall be a minimum of 18 inches above the top of curb or a minimum of 12 inches above the adjacent natural grade, whichever is greater.

(2) On streets with open ditches, slab elevations shall be a minimum of 18 inches higher than the center of the street or a minimum of 12 inches higher than the adjacent natural grade, whichever is greater.

(e) For the purposes of this section, the term "adjacent natural grade" means the natural ground adjacent to the slab at its centerline paralleling the front of the structure. Natural ground is assumed to be the ground surface existing prior to placement of the building pad.

(f) Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor.

(Code 1994, § 34-60; Code 2005, § 34-63; Ord. No. 90-26, §§ 1, 2, 10-15-1990; Ord. No. 2003-08, § 5, 7-7-2003)

Sec. 34-64. Standards for subdivision proposals.

(a) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with sections 34-21, 34-22 and 34-59.

(b) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirements of sections 34-32 and 34-26, and the provisions of this division.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 34-24.

(d) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(Code 1974, § 4-39; Code 1994, § 34-61; Code 2005, § 34-64)

Sec. 34-65. Floodways.

Property located within areas of special flood hazard as established in section 34-24 are areas designated as floodways. The council finds that floodways are extremely hazardous areas due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, and the following provisions shall therefore apply to these areas in order to protect the public health, safety, and welfare and to protect private property:

(1) Encroachments into the floodway shall be prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through a no-rise certificate using hydrologic and hydraulic analyses performed in accordance with standard engineering practices 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 34-60 through 34-64, and other applicable regulations of the city or provisions of this article.

(3) Under the provisions of 44 CFR 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 applies for a conditional FIRM and floodway revision through FEMA.

(Code 1994, § 34-62; Code 2005, § 34-65; Ord. No. 99-30, § 3, 9-27-1999; Ord. No. 2003-08, § 6, 7-7-2003)

Chapters 35--37

RESERVED

Chapter 38

HEALTH AND SANITATION*

***State law reference**—Health and safety generally, V.T.C.A., Health and Safety Code ch. 1 et seq.; health and the safety of food, V.T.C.A., Health and Safety Code § 431.001 et seq.

ARTICLE I. IN GENERAL

Secs. 38-1--38-18. Reserved.

ARTICLE II. FOOD AND FOOD SERVICE ESTABLISHMENTS*

***State law reference**—Minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code ch. 341; Texas Food, Drug, and Cosmetic Act, V.T.C.A., Health and Safety Code ch. 431; food service establishments, retail food stores, mobile food units and roadside food vendors, V.T.C.A., Health and Safety Code ch. 437; public health measures relating to food, V.T.C.A., Health and Safety Code ch. 438; municipal regulatory authority concerning food service employees not preempted by state regulation, V.T.C.A., Health and Safety Code § 438.037; municipality which is member of public health district not prohibited from regulating or administering permit system concerning food service establishments, V.T.C.A., Health and Safety Code § 437.004(d).

DIVISION 1. GENERALLY

Secs. 38-19--38-39. Reserved.

DIVISION 2. FOOD HANDLERS*

***State law reference**—Food handlers, V.T.C.A., Health and Safety Code § 438.031 et seq.

Sec. 38-40. Requirements generally.

(a) No person operating, managing or conducting any hotel or any other public sleeping or eating place, or any place or vehicle where food or drink or container thereof of any kind is manufactured, transferred, prepared, stored, packed, served, sold or otherwise handled in the city, or any manufacturer of or vendor of candies or manufactured sweets, shall:

(1) Work, employ or keep in his employ, in, on or about any such place or vehicle, or have delivered any article therefrom, any person who:

a. Is infected with a disease that is transmissible through the handling of food;

b. Resides in a household in which there is a transmissible case of a communicable disease that may be food-borne;

c. Is known to be a carrier of the organisms causing a communicable disease that may be food-borne; or

d. Has a local infection that is commonly transmitted through the handling of food.

(2) Work or employ any person to work in, on, or about such place or to deliver any article therefrom who, at the time of his employment, failed to deliver to the employer or his agent a certificate signed by a licensed physician, residing in the county where such person is employed, attesting to the fact that the bearer had been actually and thoroughly examined by a physician within a week prior to the time of such employment and that such examination disclosed the fact that such person to be employed was free from any transmissible condition of any infectious or contagious disease; or fail to institute and have made, at intervals of time not exceeding 12 months, actual and thorough examinations, essential to the findings of freedom from communicable and infectious diseases, of all such employees, by a licensed physician residing in the county where such person is employed, and secure in evidence thereof a certificate signed by

such physician stating that such examination had been made of such person, disclosing the fact that he was free from any transmissible condition of any communicable and infectious disease.

(b) A careful history of typhoid fever and dysentery shall be taken by the physician performing the examination under this section, and if such history reveals that the person being examined has at any time in the past had typhoid fever or dysentery, the physician shall perform such tests as he deems necessary to determine that the person being examined is not a carrier of typhoid fever or dysentery.

(c) In addition to the examinations required by subsections (a) and (b) of this section, such other examinations and tests as the health officer or the examining physician deems necessary to determine freedom from any communicable disease shall be performed.

(d) No person shall be eligible for a health certificate under the terms of this section who has not had an X-ray of his chest taken by a licensed physician or qualified X-ray technician, approved by the health officer, for determination of the presence or absence of tuberculosis and unless such X-ray shall have been determined to be negative. Such person shall furnish to the health officer a certificate evidencing the fact that such X-ray has been taken and the results of such X-ray examination.

(Code 1974, § 9-4; Code 1994, § 38-36; Code 2005, § 38-40)

State law reference—Food handling prohibited by infected person, V.T.C.A., Health and Safety Code § 438.032.

Sec. 38-41. Enforcing officer; display of certificate.

It shall be the duty of the director of the county health unit to enforce section 38-40. The director of the county health unit shall have the authority to establish rules for the registration of physicians' certificates and to accept the results of other examinations and tests in lieu thereof, and to issue a registration card to show that the person named thereon has complied with all of the provisions of this division, provided that such registration card must bear the signature of the person named thereon and shall be displayed for public inspection at the place where such person is employed.

(Code 1974, § 9-5; Code 1994, § 38-37; Code 2005, § 38-41)

Sec. 38-42. Failure to display employees' health certificates.

(a) The failure of any person engaged in the businesses described in section 38-40 to display for public inspection at the place where any of the operations of such businesses are being conducted, a valid health or registration certificate, as required, for each person working and employed in, on or about such place, shall be prima facie evidence that the person so engaged in business failed to exhibit or require the exhibition of the preemployment health certificate of such employed person and failed to institute and have made of such person an actual and thorough examination necessary to determine his freedom from communicable diseases at intervals not to exceed 12 months.

(b) The responsibility for compliance with the provisions of section 38-40 shall rest equally upon the employer and employee, and either or both employer and employee shall be liable to the penalties for failure to comply with all such provisions.

(Code 1974, § 9-6; Code 1994, § 38-38; Code 2005, § 38-42)

Secs. 38-43--38-72. Reserved.

DIVISION 3. FOOD SERVICE ESTABLISHMENTS*

***State law reference—**Food service establishments, V.T.C.A., Health and Safety Code §§ 437.001 et seq., 438.001 et seq.

Sec. 38-73. State regulations adopted.

(a) There is hereby adopted by reference the Texas Department of Health Texas Food Establishment Rules, 25 Tex. Admin. Code, ch. 229, §§ 161-171, and 173-175); the Harris County Rules Regulating Food Establishments in Harris County, Texas; the Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors (V.T.C.A., Health and Safety Code ch. 437); the Texas Food, Drug, and Cosmetic Act (V.T.C.A., Health and Safety Code ch. 431); and the Minimum Standards of Sanitation and Health Protection Measures (V.T.C.A., Health and Safety Code ch. 341).

(b) A certified copy of each rule manual, as set forth in subsection (a) of this section, shall be kept on file in the office of the city secretary.

(Code 1974, § 9-21; Code 1994, § 38-51; Code 2005, § 38-73)

Sec. 38-74. Penalties and remedies.

Violations of the rules on food service sanitation adopted in section 38-73 are subject to the penalties and remedies listed in such rules.

(Code 1974, § 9-22; Code 1994, § 38-52; Code 2005, § 38-74)

Sec. 38-75. Permit required.

No person shall operate a food service establishment who does not have a valid permit issued to him by the municipality. Only a person who complies with the requirements of this division shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every establishment.

(Code 1974, § 9-23(A)(1); Code 1994, § 38-53; Code 2005, § 38-75)

Sec. 38-76. Issuance of permit.

(a) Any person desiring to operate a food service establishment shall make written application for a permit on forms provided by the regulatory authority. Such application shall include the name, address and primary e-mail address of each applicant, the location and type of the proposed establishment, and the signature of each applicant.

(b) Prior to approval of an application for a permit under this division, the regulatory authority shall inspect the proposed establishment to determine compliance with the requirements of this article.

(c) The city shall issue a permit to the applicant if the regulatory authority's inspection reveals that the proposed establishment complies with the requirements of this division. Each permit issued under the provisions of this division shall be valid for a period of 12 months after the date of issuance thereof.

(Code 1974, § 9-23(A)(2); Code 1994, § 38-54; Code 2005, § 38-76)

Sec. 38-77. Suspension.

(a) The regulatory authority may, without warning, notice or hearing, suspend any permit to operate a food service establishment if the operation of the establishment constitutes a substantial hazard to the public health. Suspension is effective upon service of the notice in accordance with subsection (b) of this section. Whenever a permit is suspended, food service operations shall

immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within five calendar days of receipt of a request for a hearing.

(b) Whenever a permit to operate a food service establishment is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten days. If no written request for a hearing is filed within ten days, the suspension is sustained. The regulatory authority shall end the suspension at any time if reasons for suspension no longer exists.

(Code 1974, § 9-23(A)(3); Code 1994, § 38-55; Code 2005, § 38-77)

Sec. 38-78. Revocation of permit.

The regulatory authority may, after providing opportunity for a hearing, revoke a food service establishment's permit for serious or repeated violations of any of the requirements of this division or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

(Code 1974, § 9-23(A)(4); Code 1994, § 38-56; Code 2005, § 38-78)

Sec. 38-79. Service of notices.

A notice provided for in this division is properly served when it is delivered to the holder of the permit 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. A copy of the notice shall be filed in the records of the regulatory authority.

(Code 1974, § 9-23(A)(5); Code 1994, § 38-57; Code 2005, § 38-79)

Sec. 38-80. Hearings.

The hearings provided for in this division shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make a final finding, 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 by the regulatory authority.

(Code 1974, § 9-23(A)(6); Code 1994, § 38-58; Code 2005, § 38-80)

Sec. 38-81. Application after revocation.

Whenever a revocation of a permit under this division has become final, the holder of the revoked permit may make written application for a new permit. The holder of the revoked permit must meet all the rules and requirements as stated in section 38-76 before a new permit will be issued.

(Code 1974, § 9-23(A)(7); Code 1994, § 38-59; Code 2005, § 38-81)

Sec. 38-82. Inspections.

(a) *Inspection frequency.* An inspection of a food service establishment shall be performed at least once every six months. Additional inspections of the food service establishment shall be performed as often as are necessary for the enforcement of this division.

(b) *Correction of violations*. The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified in the state department of health, division of food and drugs' rules on food service sanitation, 25 Tex. Admin. Code § 229.171.

(c) *Inspection report form*. An inspection report form based on the requirements of this division is on file in the office of the city secretary.

(Code 1974, § 9-23(B); Code 1994, § 38-60; Code 2005, § 38-82)

Sec. 38-83. Examination and condemnation of food.

Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of this division. The regulatory authority 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 the Rules on Food Service Sanitation, or any other provision of this division. The regulatory authority 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 regulatory authority shall permit storage of the 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. The hold order shall state that a request for hearing may be filed with the regulatory authority within ten days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and 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 division.

(Code 1974, § 9-23(C); Code 1994, § 38-61; Code 2005, § 38-83)

Sec. 38-84. Review of plans.

(a) *Submission of plans*. Whenever a food service establishment is constructed or extensively remodeled and whenever 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 regulatory authority 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 regulatory authority shall approve the plans and specifications if they meet the requirements of this division. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority.

(b) *Preoperational inspection*. Whenever plans and specifications are required by subsection (a) of this section to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this division.

(Code 1974, § 9-23(D); Code 1994, § 38-62; Code 2005, § 38-84)

Sec. 38-85. Fees.

Before any permit shall be issued under the provisions of this division, the applicant shall pay to the municipality a fee to be set by resolution and printed in Appendix D to this Code to help defray the cost of the enforcement of this division.

(Code 1974, § 9-23(E); Code 1994, § 38-63; Code 2005, § 38-85)

Sec. 38-86. Procedure when infection is suspected.

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employees or make any other investigations as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the measures as specified in the state department of health, division of food and drugs' rules on food service sanitation, 25 Tex. Admin. Code § 229.171(o).

(Code 1974, § 9-23(F); Code 1994, § 38-64; Code 2005, § 38-86)

Sec. 38-87. Remedies.

(a) *Penalties*. Any person who violates a provision of this division and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of this division and any responsible officer of that permit holder or those persons shall be punished for violation of a misdemeanor.

(b) *Injunctions*. The regulatory authority may seek to enjoin violations of this division.

(Code 1974, § 9-23(G); Code 1994, § 38-65; Code 2005, § 38-87)

Chapters 39--41

RESERVED

Chapter 42

LAW ENFORCEMENT*

***State constitution references**--Survivor's assistance, death in the line of duty, Tex. Const. art. 3, § 51-d.

State law reference—Law enforcement officers, V.T.C.A., Occupations Code ch. 1701; municipal law enforcement, V.T.C.A., Local Government Code ch. 341; law enforcement services provided through cooperation of local governments, V.T.C.A., Local Government Code ch. 362; penal provisions, V.T.C.A., Penal Code ch. 1 et seq.; V.T.C.A., Transportation Code ch. 1 et seq.; authority of peace officers to arrest without warrant, V.T.C.A., Code of Criminal Procedure art. 14.03.

ARTICLE I. IN GENERAL

Sec. 42-1. Municipal court building security fund.

(a) There is hereby created and established a municipal court building security fund (the "fund"), pursuant to V.T.C.A., Code of Criminal Procedure art. 102.017.

(b) The municipal court of the city (the "municipal court") is hereby authorized and required to assess a municipal court building security fee (the "fee") in the amount set by resolution and printed in Appendix D to this Code against all defendants convicted of a misdemeanor offense by the municipal court. Each misdemeanor conviction shall be subject to a separate assessment of the fee.

(c) The municipal court clerk is hereby authorized and required to collect the fee and to pay same to the treasury of the city. All fees so collected and paid over to the treasury of the city shall be segregated in the fund.

(d) The fund shall be used only for the purposes of financing the purchase of security devices and/or services for the building or buildings housing the municipal court of the city. "Security devices and/or services" shall include any and all items described in V.T.C.A., Code of Criminal Procedure art. 102.017(d).

(e) The fund shall be administered by or under the direction of the city council.

(Code 1994, § 42-1; Code 2005, § 42-1; Ord. No. 97-20, §§ 1--5, 11-17-1997)

State law reference—Municipal court building security fund, V.T.C.A., Code of Criminal Procedure art. 102.017.

Sec. 42-2. Municipal court technology fund.

(a) *Establishment.*

(1) Pursuant to and in accordance with V.T.C.A., Code of Criminal Procedure art. 102.0172, there is hereby created and established a municipal court technology fund (the "fund").

(2) The fund shall be maintained in an interest bearing account. The fund may be combined with the city's general revenue account if its contents, including all interest earned thereon, are identified and accounted for.

(b) *Assessment and collection of fee; establishment of amount.*

(1) There is hereby established a municipal court technology fund fee (the "fee"), which shall be in the amount set by resolution and printed in Appendix D to this Code.

(2) The fee shall be assessed and collected from each defendant for each conviction of a misdemeanor offense in the city's municipal court as a cost of court. A defendant is considered convicted if:

a. A sentence is imposed on the defendant;

b. The defendant is placed on community supervision, including deferred adjudication community supervision; or

c. The court defers final disposition of the defendant's case.

(3) The fee shall be collected for each conviction for an offense committed on or after September 1, 1999.

(4) The clerk of the municipal court shall collect the fee and render the same to the city treasurer, who shall deposit all fees collected into the fund.

(c) *Designation of fund; administration.*

(1) The fund shall be used only for financing the acquisition or maintenance of technological enhancements for the municipal court of the city, including computer systems, computer networks, computer hardware, computer software, imaging systems, electronic kiosks, electronic ticket writers and dock management systems.

(2) The fund shall be administered by, and shall be under the direction and supervision of, the city council.

(Code 1994, § 42-2; Code 2005, § 42-2; Ord. No. 2000-06, §§ 1--3, 3-20-2000; Ord. No. 2003-17, § 1, 10-6-2003)

State law reference—Municipal court technology fund, V.T.C.A., Code of Criminal Procedure art. 102.0172.

Secs. 42-3--42-22. Reserved.

ARTICLE II. POLICE RESERVE FORCE*

***State law reference—**Compensation for police reserve force members, V.T.C.A., Local Government Code § 141.007; police reserve force authorized, V.T.C.A., Local Government Code § 341.012(a); qualifications for basic peace officer proficiency certificate, 37 Tex. Admin. Code § 221.3.

Sec. 42-23. Establishment authorized.

There is hereby authorized the establishment of a police reserve force for the city.

(Code 1974, § 14-5(a); Code 1994, § 42-26; Code 2005, § 42-23)

Sec. 42-24. Membership.

Members of the police reserve force shall be appointed by the chief of police and approved by the city council. The number of reserve police officers shall not exceed twice the number of regular police officers authorized for the regular police force of the city.

(Code 1974, § 14-5(b); Code 1994, § 42-27; Code 2005, § 42-24)

Sec. 42-25. Service.

Reserve police officers shall act only in a supplementary capacity to the regular police force. Reserve police officers may be called into service by the chief of police when he, in his discretion, considers it necessary to have additional officers to preserve the peace and enforce the law. When called into service, a reserve police officer shall serve as a peace officer during the actual discharge of official duties.

(Code 1974, § 14-5(c); Code 1994, § 42-28; Code 2005, § 42-25)

Sec. 42-26. Approval; training.

No person appointed to the police reserve force may carry a weapon or otherwise act as a peace officer unless he has been approved by the city council and has fulfilled the minimum training standards described in section 42-27. After approval and fulfillment of the minimum training standards, he may carry a weapon only when authorized by the chief of police, and when discharging official duties as a duly constituted peace officer.

(Code 1974, § 14-5(d); Code 1994, § 42-29; Code 2005, § 42-26)

Sec. 42-27. Training standards.

A reserve police officer must fulfill the minimum training standards established for all reserve law enforcement officers by the commission of law enforcement standards and education. Reserve police officers shall further possess and maintain the minimum physical, mental, educational and moral standards established for all reserve law enforcement officers by the commission of law enforcement officers standards and education.

(Code 1974, § 14-5(e); Code 1994, § 42-30; Code 2005, § 42-27)

Sec. 42-28. Compensation.

Reserve police officers shall serve without compensation. However, the city shall provide a uniform allowance for members of the police reserve force.

(Code 1974, § 14-5(f); Code 1994, § 42-; Code 2005, § 42-2831)

Chapters 43--45

RESERVED

Chapter 46

LIBRARY*

***State law reference—**Libraries and archives, V.T.C.A., Government Code ch. 441.

ARTICLE I. IN GENERAL

Secs. 46-1--46-18. Reserved.

ARTICLE II. FRIENDSWOOD PUBLIC LIBRARY

Sec. 46-19. Board of trustees.

(a) There is hereby created the board of trustees of the city public library. Such board shall administer and supervise the operation of the public library and any branches thereof as may be established by the city council, under the supervision and control of the city manager. Such board may formulate such rules and regulations as it shall deem necessary for the orderly use of the library facilities and in governing the performance of duties of the library employees and personnel.

(b) The board of trustees of the city public library shall consist of five members, to be appointed by the city council for the term of three years, with appointments to be staggered throughout the three-year period.

(c) The board of trustees of the city public library shall have no power to obligate the city in any manner whatsoever; its finances shall be handled in the same manner as any division of the city government.

(Code 1974, § 13-23; Code 1994, § 46-26; Code 2005, § 46-19)

Sec. 46-20. Books and equipment.

The city hereby accepts all gifts and donations of books and equipment heretofore made for the city public library, with grateful thanks to the donors both of books and time. Such books and equipment, together with such additions as may be made from time to time, shall constitute and form the books and equipment of the city public library.

(Code 1974, § 13-22; Code 1994, § 46-27; Code 2005, § 46-20)

Chapters 47--49

RESERVED

Chapter 50

MANUFACTURED HOMES AND TRAILERS*

***State law reference**—Texas Manufactured Housing Standards Act, V.T.C.A., Occupations Code ch. 1201.

ARTICLE I. IN GENERAL

Secs. 50-1--50-18. Reserved.

ARTICLE II. MOBILE HOMES AND MOBILE HOME PARKS*

***Federal law reference**--No state or local government may establish construction and safety standards for manufactured housing which are not identical to Federal construction and safety standards, 42 USC 5403; National Manufactured Home Construction and Safety Standards ("HUD Code"), 24 CFR 3280 et seq.

State law reference—Texas Manufactured Housing Standards Act, V.T.C.A., Occupations Code § 1201.001 et seq.; regulation of certain types of housing and buildings, reservation of municipal authority, V.T.C.A., Occupations Code § 1202.252; regulation by municipality of mobile and manufactured housing, V.T.C.A., Occupations Code § 1201.008.

DIVISION 1. GENERALLY

Sec. 50-19. 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:

Annual parking permit means a permit required for any mobile home or travel trailer which is occupying a stand in a mobile home park and which permit is valid for the period from January 1 through December 31 of the year of issuance.

Building official means the city building inspector or his duly authorized representative.

Cash means United States currency or coin or a cashier's certified check or a postal money order.

Construction permit means the permit required for the construction, alteration or extension of any mobile home park in the city.

Construction permittee means the person to whom a construction permit has been issued.

Current parking permit means a valid, unexpired, annual, semiannual or temporary parking permit.

Expandable room means an enclosed or a semienclosed room or roofed portion which expands outward from the basic mobile home by means of rollers, hinges or other devices or arrangements but which is designed as a structural portion of the mobile home and which is carried on, or within, the mobile home while traveling; including also permanent additions to mobile homes.

Health officer means the county director of health.

Label means a metal inspection label or plate which has been permanently affixed by the manufacturer or by an approved testing agency to a mobile home or travel trailer or to equipment used in connection therewith and which contains a serial number, if required, and the specifications of the vehicle or the equipment to which it is attached, and which refers to any standards that have been met in the construction of such vehicle or equipment.

License means a mobile home park operator's license.

Licensee means the person to whom a mobile home park operator's license has been issued.

HUD-code manufactured home.

(1) The term "HUD-code manufactured home":

a. Means a structure:

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

2. Built on a permanent chassis;

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

4. Transportable in one or more sections; and

5. Which is in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;

b. Includes the plumbing, heating, air conditioning, and electrical systems of the home; and

c. Does not include a recreational vehicle as defined by 24 CFR 3282.8(g).

(2) A structure described by this definition shall be allowed for placement only in a mobile home park or a mobile home subdivision, zoned MHR in accordance with the city's zoning ordinances. Any structure not described by this definition shall not be allowed for placement in a mobile home park, nor anywhere else in the city.

Manufactured home or *manufactured housing* means a HUD-code manufactured home or a mobile home.

Manufacturer means the manufacturer of a mobile home or a travel trailer.

Mobile home. The term "mobile home":

(1) Means a structure:

a. Constructed before June 15, 1976;

b. Built on a permanent chassis;

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

d. Transportable in one or more sections; and

e. Which is in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

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

Mobile home lot means a parcel or tract of land for the placement of a single mobile home and the exclusive use of its occupants and which is located in a mobile home subdivision approved by the planning commission of the city. This is to be distinguished from a mobile home stand and site located within a mobile home park.

Mobile home park means a tract or parcel of land used for lease or rental occupancy by two or more mobile or manufactured homes.

Mobile home sales lot means a parcel or tract of land which is used by a mobile home dealer or agent for the sale, or for the leasing or renting for use off such lot, of mobile homes or travel trailers.

Mobile home stand means that part of a mobile home park which has been improved for the placement of mobile homes, including all required appurtenant structures, and having provision for available utility connections.

Mobile home subdivision means a parcel or tract of land in which the occupant of the mobile home owns the mobile home lot on which the mobile home is located.

Occupant means the person who occupies a mobile home or travel trailer in a mobile home park.

Overnight parking means the use of a mobile home park for a period not to exceed seven days by a travel trailer or mobile home, provided that if such use exceeds seven days, a valid annual, semiannual or temporary parking permit is required and the beginning date shall be the initial date of occupancy of the mobile home park. No permit or fee shall be required by the city for the temporary use of a mobile home park for a period of seven days or less.

Owner means the owner or lessee, whether one or more, of the premises on which a mobile home park is operated when such person is not a licensee.

Parking permit means an annual, semiannual or temporary parking permit.

Semiannual parking permit means a permit required for any mobile home or travel trailer which has been placed upon a stand in a mobile home park and which is valid for the period from January 1 through June 30 or for the period from July 1 through December 31 of the year of issuance.

Service building means a structure housing toilet facilities, lavatories, bathing facilities and such other facilities as may be required or permitted under the provisions of this article and which is used in connection with the operation of a mobile home park.

Sewer connection means the connection consisting of the pipes, fittings and appurtenances from the drain outlet of the mobile home or travel trailer to the inlet of the corresponding sewer riser pipe or the sewerage system serving the mobile home park.

Sewer riser means that portion of the pipe of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home stand.

Temporary parking permit means a permit which may be used in lieu of an annual or semiannual parking permit and which is valid for 30 days from the date of issuance.

Travel trailer 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 by the manufacturer. When such a vehicle has been equipped by the manufacturer for use on public streets and highways, the body of such vehicle shall not exceed eight feet in width but may be of any length, provided its gross weight does not exceed 4,500 pounds, or a travel trailer may be of any height, provided its length does not exceed 29 feet, exclusive of the tongue. The term "travel trailer" shall also be deemed to include all other portable contrivances other than mobile homes used or intended to be used generally for living and sleeping quarters and which may be moved under their own power or towed or transported by another vehicle.

Utilities means the telephone, water, sewerage, gas and electrical distribution systems, which are available for connection to mobile homes or travel trailers in mobile home parks.

Utility connection means the connection of available utilities in a mobile home park to a mobile home or travel trailer placed on a mobile home stand in a mobile home park.

Vehicle means a mobile home or a travel trailer, unless the context in which the word is used indicates that another meaning is intended.

Water connection means the connection of the pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe for the water distribution system of a mobile home or travel trailer.

(Code 1974, § 10-1; Code 1994, § 50-26; Code 2005, § 50-19; Ord. No. 98-11, § 1, 4-20-1998)

Sec. 50-20. Travel trailers.

No travel trailer shall be used as or occupied as a permanent type residence except in a mobile home park. Travel trailers so occupied shall comply with American Standard Association pamphlet "A 119.2-1963 Plumbing, Heating and Electrical Systems in Travel Trailers."

(Code 1974, § 10-77; Code 1994, § 50-27; Code 2005, § 50-20)

Secs. 50-21--50-43. Reserved.

DIVISION 2. MOBILE HOMES

Sec. 50-44. Standards applicable.

The standards for mobile homes in CABO Manufactured Homes Construction and Safety Standards are hereby adopted and shall be applicable to mobile homes in the city.

(Code 1994, § 50-40; Code 1994, § 50-41; Code 2005, § 50-44)

Sec. 50-45. Parking in violation of deed restrictions.

No mobile home shall be parked in violation of any enforceable deed restriction or covenant.

(Code 1974, § 10-68; Code 1994, § 50-42; Code 2005, § 50-45)

Sec. 50-46. Occupancy restricted.

It shall be unlawful to occupy a mobile home as any type occupancy other than as a private dwelling; provided, however, a mobile home may be parked at a construction site for use as a field office for a period not exceeding the period of construction and not more than one mobile home may be used for demonstration purposes and office at a mobile home sales park.

(Code 1974, § 10-73; Code 1994, § 50-43; Code 2005, § 50-46)

Sec. 50-47. Maintenance.

All mobile homes and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this article and other regulations, pamphlets or data made a part of this article, when installed, repaired or altered, shall be maintained in good working order. The owner or occupant shall be responsible for the maintenance of the mobile home.

(Code 1974, § 10-74; Code 1994, § 50-44; Code 2005, § 50-47)

Sec. 50-48. Minimum floor space, etc.

Each mobile home must have a minimum space of 200 square feet of floor area, and qualify under the definition of "mobile home" in section 50-19.

(Code 1974, § 10-76; Code 1994, § 50-45; Code 2005, § 50-48)

Secs. 50-49--50-69. Reserved.

DIVISION 3. MOBILE HOME PARKS*

***State law reference**—Minimum sanitation standards for mobile home developments, 25 Tex. Admin. Code § 265.82 et seq.; streets and parking facilities in mobile home developments, 25 Tex. Admin. Code § 265.82(i); water supply in mobile home development, 25 Tex. Admin. Code § 265.82(a); mobile home development standards, sewage disposal, 25 Tex. Admin. Code § 265.82(c); electrical distribution systems in mobile home developments, 25 Tex. Admin. Code § 285.82(d); solid waste disposal in mobile home developments, 25 Tex. Admin. Code § 285.82(e); insect and rodent control in mobile home developments, 25 Tex. Admin. Code § 285.82(f).

Subdivision I. In General

Sec. 50-70. Operation and occupancy responsibilities.

(a) *Responsibilities of mobile home park licensee.*

(1) The person to whom a license for a mobile home park has been issued shall be responsible for operation of such park in compliance with the provisions of this division and he shall provide adequate supervision to maintain such park, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The licensee shall be responsible for notifying park occupants of the applicable provisions of this division.

(3) The licensee shall be responsible for supervising the placement of mobile homes on mobile home stands within the mobile home park. The licensee shall be responsible for maintaining a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park for the enforcement of this division, or any other ordinances of the city.

(b) *Responsibilities of park occupants.*

(1) Mobile home park occupants shall comply with all applicable provisions of this division, and each occupant shall maintain his mobile home, mobile home stand, mobile home site and appurtenances and equipment in good repair and in a clean and sanitary condition.

(2) The mobile home park occupant shall be responsible for the proper placement of his mobile home on the mobile home stand and for proper installation of all utility connections.

(Code 1974, § 10-25; Code 1994, § 50-56; Code 2005, § 50-70)

Sec. 50-71. Conditions to occupancy of mobile home.

A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to water, sewerage, electrical utilities and other services where required for health and safety of the occupant.

(Code 1974, § 10-26; Code 1994, § 50-57; Code 2005, § 50-71)

Sec. 50-72. Utilities connection requirement.

(a) It shall be unlawful for any person to occupy a mobile home or travel trailer in a mobile home park unless such vehicle has first been connected to the approved utilities, exclusive of telephone, available in such park.

(b) It shall be unlawful for the occupant of a mobile home or travel trailer to connect or permit such vehicle to be connected to the available utilities in a mobile home park or for such vehicle to remain so connected, without first securing a parking permit, except that no permit will be required for the use of a mobile home park for a period of seven days or less.

(c) It shall be the responsibility of a mobile home park licensee, his agents or employees, to notify the city in writing when any mobile home or travel trailer is to be connected to the available utilities in the mobile home park operated by the licensee. Failure to perform such notification shall constitute a misdemeanor under the terms of this division.

(Code 1974, § 10-11; Code 1994, § 50-58; Code 2005, § 50-72)

Secs. 50-73--50-102. Reserved.

Subdivision II. Construction Permit

Sec. 50-103. Required.

It shall be unlawful for any person to construct, alter or extend any mobile home park within the city unless he shall first have obtained a mobile home park construction permit therefor from the city.

(Code 1974, § 10-2; Code 1994, § 50-71; Code 2005, § 50-103)

Sec. 50-104. Application.

Application for a construction permit shall be made to the planning commission in triplicate and the following information and items shall be furnished:

(1) Name, address and primary e-mail address of the applicant.

(2) An application fee as set by resolution and printed in Appendix D to this Code.

(3) Interest of the applicant in the mobile home park.

(4) Location and legal description of the mobile home park.

(5) Complete engineering plans and specifications in triplicate for the proposed park showing:

a. The area and dimensions of the tract of land.

b. A plat or map of the proposed mobile home park showing the number, location and size of all mobile home sites, stands, locations and widths of roadways and walkways, service buildings and other proposed structures.

c. The location of water and sewer lines and riser pipes.

d. Plans and specifications for the water supply, including fireplugs and refuse and sewage disposal facilities.

e. Plans and specifications for all buildings to be constructed within the mobile home park.

f. The location and details of lighting and electrical systems.

g. Surface drainage plan.

(Code 1974, § 10-4; Code 1994, § 50-72; Code 2005, § 50-104)

Sec. 50-105. Appeals from denial of construction permit.

Any person who has been denied a mobile home park construction permit may appeal such denial by following the same procedure provided for an appeal from a license denial, revocation or suspension by the building official.

(Code 1974, § 10-21; Code 1994, § 50-73; Code 2005, § 50-105)

Sec. 50-106. Other permits required.

In addition to the construction permit, a separate permit for mobile home parks shall be required for the building, electrical, plumbing and driveway-sidewalk and other permits when required.

(Code 1974, § 10-3; Code 1994, § 50-74; Code 2005, § 50-106)

Secs. 50-107--50-125. Reserved.

Subdivision III. Parking Permit

Sec. 50-126. Required, exception; form; display.

(a) It shall be unlawful for any person to occupy a mobile home or travel trailer in a mobile home park without first securing a parking permit therefor, except that no permit will be required for the use of a mobile home park for a period of seven days or less.

(b) The building official is authorized to prescribe the form of parking permits and to require that additional relevant information is furnished, either in the application for parking permits, upon the face or back of the parking permit or upon the receipt thereof. The building official is further authorized to designate the place on or within a mobile home or travel trailer that a parking permit shall be affixed or displayed, and the failure, refusal or neglect of a parking permit holder to comply with this requirement shall constitute an offense and the building official is authorized to disconnect or cause to be disconnected the available utilities in a mobile home park from such vehicle.

(Code 1974, § 10-8; Code 1994, § 50-86; Code 2005, § 50-126)

Sec. 50-127. Annual and semiannual periods; application; fees; assignment; replacement.

(a) An annual parking permit shall be valid for the period from January 1 through December 31 of the year of issuance. A semiannual parking permit shall be valid for the period from January 1 through June 30, or July 1 through December 31 of the year of issuance.

(b) An annual or a semiannual parking permit may be issued only by the city; such permits may not be issued by licensees or mobile home dealers.

(c) Application for an annual parking permit or a semiannual parking permit shall be made to the building official.

(d) A cash fee set by resolution and printed in Appendix D to this Code shall be paid for an annual parking permit and no proration shall be allowed for an elapsed period of time in the year of issuance. A cash fee set by resolution and printed in Appendix D to this Code shall be paid for a semiannual parking permit.

(e) Applications for parking permits may be made by mail to the building official.

(f) If the mobile home stays within the city less than one month, a refund of the parking permit may be made for all but an amount to be set by resolution and printed in Appendix D to this Code of the semiannual or annual fees paid. If the period of time is more than one month but less than six months, the city shall, upon request, refund an amount to be set by resolution and printed in Appendix D to this Code of any annual fee paid.

(g) A parking permit may be assigned in connection with the sale, lease or renting of a mobile home or travel trailer or a permit holder may transfer a parking permit from one vehicle to another. Application for such assignment or transfer shall be made to the building official who shall furnish the necessary forms. A service charge set by resolution and printed in Appendix D to this Code will be made for each transfer or assignment. This provision is not to be construed as requiring an assignment of a parking permit from the seller in whose name the parking permit has been issued to the purchaser, provided the seller has delivered to the purchaser his receipt for such parking permit.

(h) If the building official is furnished satisfactory proof that a parking permit which has been issued has been lost, destroyed or defaced, he may issue a replacement permit for the unexpired term of such permit upon payment of a service charge set by resolution and printed in Appendix D to this Code. The building official may prescribe such forms and requirements as he

may from time to time find necessary to ensure that no replacement parking permit is improperly issued.

(Code 1974, § 10-9; Code 1994, § 50-87; Code 2005, § 50-127)

Sec. 50-128. Temporary permits.

A temporary parking permit may be used in lieu of an annual or a semiannual parking permit and it shall be valid for a period of 30 days from the date of issuance. A temporary parking permit may be obtained from the building official in the same manner as an annual or semiannual parking permit upon payment of a cash fee set by resolution and printed in Appendix D to this Code.

(Code 1974, § 10-10; Code 1994, § 50-88; Code 2005, § 50-128)

Secs. 50-129--50-154. Reserved.

Subdivision IV. License

Sec. 50-155. Required.

It shall be unlawful to establish, maintain or operate a mobile home park, whether presently existing or new, without first securing a mobile home park license therefor.

(Code 1974, § 10-5; Code 1994, § 50-101; Code 2005, § 50-155)

Sec. 50-156. Period; fees.

Licenses shall be valid for a period of one year beginning on July 1 of each year and shall be renewable annually during the month of June. A nonrefundable license application investigation fee set by resolution and printed in Appendix D to this Code shall accompany each application for a license, provided that such investigation fee will be allowed as a credit upon the license if it is granted. The license fee and annual license renewal fee shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 10-6; Code 1994, § 50-102; Code 2005, § 50-156)

Sec. 50-157. Revocations and suspensions of licenses and utility connection authority; grounds.

The building official shall have authority to suspend or revoke licenses or to order utility disconnections for the following violations of the provisions of this subdivision:

(1) A license may be suspended for any period of time up to six months for a violation affecting the health, safety or welfare of occupants of a mobile home or of other persons or property.

(2) A license may be revoked for a violation which is dangerous to life.

(3) For a violation not deemed to require a license suspension or revocation, the utility connection servicing any stand or any structure in a mobile home park may be disconnected or caused to be disconnected, provided that a utility disconnection may be ordered in connection with a license suspension or revocation as to all or any part of a mobile home park if necessary to protect life or property.

(Code 1974, § 10-12; Code 1994, § 50-103; Code 2005, § 50-157)

Sec. 50-158. Reinstatement of suspended license.

After the period of suspension, a suspended license will be reinstated by the building official upon a showing of ability and willingness by the licensee to comply with the provisions of this subdivision.

(Code 1974, § 10-13; Code 1994, § 50-104; Code 2005, § 50-158)

Sec. 50-159. New license after revocation.

A person whose license has been revoked may apply for a new license six months after such revocation by making a new application and paying the required fee therefor. Before granting such new license, the building official shall require the applicant to show ability and willingness to comply with the provisions of this subdivision.

(Code 1974, § 10-14; Code 1994, § 50-105; Code 2005, § 50-159)

Sec. 50-160. Transfer or assignment of license during period.

No sale, transfer or assignment of a revoked license or of a license during the period of suspension will be recognized by the city, provided a person whose license has been suspended or revoked may sell, transfer or assign his interest in the premises, if any, to another person who may then make application for a license to operate the mobile home park. If it is shown by the applicant that he has had no responsible connection with the mobile home park, he will be eligible for the granting of a new license, and, if a new license is granted, the new licensee may commence to operate the mobile home park upon issuance of the license.

(Code 1974, § 10-15; Code 1994, § 50-106; Code 2005, § 50-160)

Sec. 50-161. New license to owner.

Where a person whose license under this subdivision has been suspended or revoked has no interest in the premises other than by agreement with the owner of the premises, such person may advise the city in writing of his withdrawal from any further connection with the mobile home park. In this event, and if it is shown that the owners had no responsible connection with the actual operation and maintenance of the mobile home park, a new application may be made by any person other than the person whose license was suspended or revoked, and, if the new license is granted, the new licensee may commence to operate the mobile home park upon issuance of the license.

(Code 1974, § 10-16; Code 1994, § 50-107; Code 2005, § 50-161)

Sec. 50-162. Appeal from license denial.

Any person whose application for a license has been denied by the building official shall have the right to appeal such decision as provided for appeals from license revocation.

(Code 1974, § 10-22; Code 1994, § 50-108; Code 2005, § 50-162)

Sec. 50-163. Appeal from license revocation, etc.

(a) Any license revocation or suspension, or any order for a utility disconnection, or any decision, order or action taken by the building official may be appealed by any person affected by the decision, order or action to the planning and zoning commission by filing written notice of appeal within ten days from the date of notice of such action by mailing postpaid or delivering such notice to the city secretary at the city hall.

(b) When such a written appeal as described in subsection (a) of this section has been made within ten days, a license suspension or revocation, or any decision or action by the building official, will be held in abeyance and such person will be given a hearing before the planning and zoning commission, provided any utility disconnection shall not be reconnected unless authorized by the planning and zoning commission after hearing.

(Code 1974, § 10-23; Code 1994, § 50-109; Code 2005, § 50-163)

Sec. 50-164. Occupancy of unlicensed park.

It shall be unlawful for any mobile home park occupant to continue occupying a mobile home or a travel trailer located in a mobile home park which has not been duly licensed by the city. A

ten-day written notice of such failure of the owner or operator of an existing mobile home park shall be given to the occupants of such mobile home park and the failure, refusal or neglect of such occupants to remove their mobile homes or travel trailers therefrom, or to cease occupying such mobile homes or travel trailers within such ten-day period, shall constitute an offense.

(Code 1974, § 10-7; Code 1994, § 50-110; Code 2005, § 50-164)

Secs. 50-165--50-181. Reserved.

Subdivision V. Inspection

Sec. 50-182. Authorized.

The inspecting authority shall make such inspection as necessary to ensure compliance with the provisions of this division.

(Code 1974, § 10-17; Code 1994, § 50-121; Code 2005, § 50-182)

Sec. 50-183. License issuance deemed consent; hours.

By the acceptance of the license to operate a mobile home park, the licensee shall be deemed to authorize the inspection of such mobile home park at all reasonable hours. Such hours shall usually be during normal working hours, and failure to permit such inspection shall be grounds for suspension or revocation of the license. Where there is reason to believe a violation may exist before or after the hours of normal inspection, the building official may authorize special inspections at any time; provided, however, that nothing in this section shall prohibit inspection for valid parking permits at any time.

(Code 1974, § 10-18; Code 1994, § 50-122; Code 2005, § 50-183)

Sec. 50-184. Obstruction by occupant.

Failure or refusal of a mobile home park occupant to permit inspection by the inspecting authority, or to permit the licensee to make necessary repairs or alterations in compliance with the requirements of the inspecting authority, shall constitute grounds for disconnection of the utilities serving such mobile home. The mobile home occupant shall have the right to appeal any decision, order or action of the building official or the inspecting authority by following the same procedure provided for appeals from license denials, suspensions or revocations by the building official.

(Code 1974, § 10-19; Code 1994, § 50-123; Code 2005, § 50-184)

Sec. 50-185. Notice of violation.

The inspecting authority may issue written notice of violations to the licensee or his agent, or to any mobile home park occupant, setting out the particular violation and setting out a time for making the necessary correction or repair. The person receiving such a notice shall have the right of appeal as from license denials, suspensions or revocations by the building official. The provision for written notices shall be cumulative of the penal provisions of this Code and the issuance of a written notice shall not prevent the filing of a criminal charge for violation of the provisions of this subdivision.

(Code 1974, § 10-20; Code 1994, § 50-124; Code 2005, § 50-185)

Secs. 50-186--50-208. Reserved.

Subdivision VI. Plans and Specifications

Sec. 50-209. Topography, environmental considerations generally.

Condition of soil, groundwater level, drainage and topography shall not create hazards to the mobile home park property or the health or safety of the occupants thereof. The site shall not be exposed to objectionable adverse influences, and no portion subject to unpredictable and/or sudden

flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards. Further, all drainage must be approved by the drainage board.

(Code 1974, § 10-27; Code 1994, § 50-136; Code 2005, § 50-209)

Sec. 50-210. Soil and ground cover requirements.

Exposed ground surfaces in all parts of every mobile home park shall be paved or covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

(Code 1974, § 10-28; Code 1994, § 50-137; Code 2005, § 50-210)

Sec. 50-211. Site drainage requirements.

The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner and must meet any requirements established by the drainage board.

(Code 1974, § 10-29; Code 1994, § 50-138; Code 2005, § 50-211)

Sec. 50-212. Park areas for nonresident uses.

No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.

(Code 1974, § 10-30; Code 1994, § 50-139; Code 2005, § 50-212)

Sec. 50-213. Separation between mobile homes.

(a) Mobile homes shall be separated from each other and from other buildings and structures by at least ten feet on the sides and provide end-to-end clearance of ten feet.

(b) An accessory structure which has a horizontal area exceeding 25 square feet, which is attached to a mobile home or located within ten feet of its window, and has an opaque top or roof that is higher than the nearest window, shall, for purposes of all separation requirements, be considered to be part of the mobile home.

(Code 1974, § 10-31; Code 1994, § 50-140; Code 2005, § 50-213)

Sec. 50-214. Recreation areas.

(a) In all parks accommodating or designed to accommodate 25 or more mobile homes, there shall be not less than one recreation area which shall be easily accessible to all park residents.

(b) The size of mobile home park recreation areas shall be based upon a minimum of 200 square feet for each mobile home stand. No outdoor recreation area shall contain less than 2,500 square feet.

(c) Recreation areas in mobile home parks shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

(Code 1974, § 10-32; Code 1994, § 50-141; Code 2005, § 50-214)

Sec. 50-215. Lot size; setbacks; buffer strips; screening.

(a) All mobile homes shall be located at least 25 feet from any property boundary line abutting upon a public street or highway and at least five feet from interior property boundary lines.

(b) There shall be a minimum distance of ten feet between individual mobile homes and four feet from adjoining pavement of a park street, or common parking area, or other common areas.

(c) All mobile home parks shall provide screening such as fences or natural growth along the property boundary line separating the park and adjacent land.

(d) The minimum lot size in mobile home parks shall be 40 feet by 75 feet.

(Code 1974, § 10-33; Code 1994, § 50-142; Code 2005, § 50-215)

Sec. 50-216. Street system.

(a) *General requirements*. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to the internal parking area or mobile home stand. Alignment and gradient shall be properly adapted to topography.

(b) *Access*. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with the public street or road shall have a minimum road pavement width of 34 feet where parking is permitted on both sides, or a minimum road pavement width of 27 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be 24 feet, provided parking is prohibited at both sides.

(c) *Internal streets*. Surfaced roadways in mobile home parks shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

(1) All streets, except minor streets, shall be not less than 24 feet in width.

(2) Minor streets, when parking is prohibited, shall not be less than 20 feet in width. Such a street will be acceptable only if it is less than 500 feet long and serves fewer than 25 mobile homes, provided that such street may exceed 500 feet if it is a one-way street and provides access to abutting mobile home sites on one side only.

(3) Dead-end streets shall not exceed 1,000 feet in length. Such streets shall be provided with a turnaround at the closed end and have an outside roadway diameter of at least 75 feet.

(d) *Required illumination of street systems*. All mobile home parks shall be furnished with lighting units so spaced and equipped with luminaires placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(1) All parts of the park street system shall average six-tenths of one footcandle and no park shall have less than one-tenth footcandle.

(2) Potentially hazardous locations, such as major street intersections and steps or stepped ramps, shall be individually illuminated and shall have a minimum of three-tenths of one footcandle.

(e) *Street construction and design standards*. All streets shall comply with length, width, design, and construction standards for subdivisions as set forth in Appendix B to this Code:

(1) *Pavement*. All streets shall be paved and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained free of dust, cracks, holes and other hazards.

(2) *Grades*. Grades of all streets shall be sufficient to ensure adequate surface drainage, but shall be not more than eight percent. Short runs with a maximum grade of 12 percent may be permitted, provided traffic safety is ensured by appropriate paving, adequate leveling areas and avoidance of lateral curves.

(3) *Intersections*. Within 100 feet of an intersection, streets shall be approximately at right angles. A distance of at least 150 feet shall be maintained between centerlines of offset intersecting streets. Intersections of more than two streets at one point shall be avoided.

(4) *Material*. Minimum standards for paving streets are six-inch cement, limestone or stabilized shell sealed and topped with 1 1/2-inch asphalt.

(Code 1974, § 10-34; Code 1994, § 50-143; Code 2005, § 50-216)

Sec. 50-217. Off-street parking areas.

(a) Off-street parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of not less than two spaces for each mobile home stand, each space to be accessible without moving another car.

(b) Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 40 feet from the mobile home that it is intended to serve.

(Code 1974, § 10-35; Code 1994, § 50-144; Code 2005, § 50-217)

Sec. 50-218. Access walks.

(a) *General requirements*. All mobile home parks shall be provided with safe, convenient all-season pedestrian access walks of adequate width for the intended use, constructed of durable material (asphalt, concrete or other masonry construction approved by the building official), and convenient to maintain. Such walks shall be placed between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided. Shell walks are unacceptable.

(b) *Common walk system*. A common walk system in mobile home parks shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three feet and meet the requirements of subsection (a) of this section.

(c) *Individual walks*. All mobile home stands shall be connected by individual walks to a common walk or paved street, or to a paved driveway or parking space which is connected to a paved street. Such individual walks shall have a minimum width of two feet and otherwise meet the requirements of subsection (a) of this section.

(Code 1974, § 10-36; Code 1994, § 50-145; Code 2005, § 50-218)

Sec. 50-219. Tiedown standards.

The tiedown standards of state law are hereby adopted.

(Code 1974, § 10-37; Code 1994, § 50-146; Code 2005, § 50-219)

Sec. 50-220. Fire hydrants.

Fire hydrants shall be placed on at least six-inch lines and all mobile home stands must be within 400 feet of the nearest fireplug.

(Code 1974, § 10-43; Code 1994, § 50-148; Code 2005, § 50-220)

Sec. 50-221. Electrical requirements.

The electrical requirements for mobile homes shall be the National Electrical Code, as applicable to mobile and manufactured homes.

(Code 1994, § 50-149; Code 2005, § 50-221)

Sec. 50-222. Management office; structural requirements for buildings.

(a) A permanent type management office shall be constructed at each licensed mobile home park. Construction standards for this office shall comply with the city building code. All other permanent type structures, except buildings housing sanitary facilities, shall be at the option of the licensee.

(b) All portions of a structure in a mobile home park shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior exposed portions of such materials shall be constructed and protected so as to prevent entrance or penetration of moisture and weather.

(c) All rooms in a mobile home park containing sanitary or laundry facilities shall have:

(1) Sound-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof material or covered with moisture-resistant material.

(2) At least one window or skylight facing directly to the outdoors. The minimum aggregate gross area of windows for each required room shall be not less than ten percent of the floor area served by them.

(3) At least one window which can be easily opened, or a mechanical device which will adequately ventilate the room.

(d) Toilets in mobile home parks shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type. The rooms shall be screened to prevent direct view of the interior when the exterior doors are open.

(Code 1974, § 10-50; Code 1994, § 50-150; Code 2005, § 50-222)

Sec. 50-223. Community service facilities.

Service buildings and other community service facilities shall conform to the International Plumbing Code, adopted in section 14-252.

(Code 1994, § 50-151; Code 2005, § 50-223)

Sec. 50-224. Barbecue pits, fireplaces, stoves and incinerators.

(a) Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators used in mobile home parks shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisances, both on the property on which used and on neighboring property.

(b) No open fire shall be permitted in a mobile home park except in facilities provided therefor. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

(Code 1974, § 10-53; Code 1994, § 50-152; Code 2005, § 50-224)

Sec. 50-225. Refuse handling.

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(Code 1974, § 10-54; Code 1994, § 50-153; Code 2005, § 50-225)

Sec. 50-226. Fuel supply and storage.

(a) *Natural gas system.*

(1) Natural gas piping systems used in mobile home parks shall be installed and maintained in accordance with the building code and other regulations governing such systems.

(2) Each mobile home stand provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

(b) *Liquefied petroleum gas systems*.

(1) Liquefied petroleum gas systems used in mobile home parks shall be installed and maintained in accordance with applicable laws, ordinances and regulations governing such systems.

(2) Bulk storage and distribution system plans shall be submitted to the fire marshal for approval.

(c) *Fuel oil supply systems*.

(1) All fuel oil supply systems used in mobile home parks shall be installed and maintained in accordance with applicable laws, ordinances and regulations governing such systems.

(2) Storage tanks located in areas subject to traffic shall be protected against physical damage.

(Code 1974, § 10-55; Code 1994, § 50-154; Code 2005, § 50-226)

Sec. 50-227. Fire protection.

(a) Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

(b) Portable fire extinguishers of a type approved by the fire marshal shall be kept in mobile home park service buildings and all other locations designated by the fire marshal or fire inspectors, and such extinguishers shall be maintained in good operating condition.

(c) Fires in mobile home parks shall be made only in stoves, incinerators and other equipment intended for such purposes.

(d) Fire hydrants in mobile home parks shall be located within 400 feet of any mobile home service building or other structure in the park, on lines not less than six inches. Fire hydrant locations shall be determined by the fire marshal.

(Code 1974, § 10-56; Code 1994, § 50-155; Code 2005, § 50-227)

Secs. 50-228--50-247. Reserved.

ARTICLE III. INDUSTRIALIZED HOUSING AND COMMERCIAL BUILDINGS*

***State law reference—**Industrialized housing and buildings, V.T.C.A., Occupations Code ch. 1202.

Sec. 50-248. Local regulation.

(a) No industrialized housing and/or commercial building shall be erected or used unless all applicable city permits and licenses has been obtained.

(b) For purposes of this article, industrialized housing and buildings shall be deemed as real property.

(c) All industrialized housing and buildings shall:

(1) Comply with all applicable city standards, including, but not limited to, building setbacks, side and rear yard offsets, subdivision controls, landscaping requirements, square footage, and other site requirements applicable to single-family dwellings and commercial developments; and

(2) Be securely fixed to a permanent foundation. The term "permanent foundation" shall mean a foundation system with the following characteristics:

a. The foundation system is capable of transmitting all design loads imposed by or upon the foundation and the attached building into soil or bedrock without failure.

b The bottoms of the foundation supports extend below the depth of frost penetration, but not less than 12 inches below finish grade.

c. The components of the foundation system are designed to remain at the site.

d. The structure is attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that only operate during transportation.

(d) In addition to the above, single-family residential industrialized housing shall:

(1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county; and

(2) Have exterior siding, roofing, roof pitch, foundation fascia and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located.

(e) For purposes of subsection (d) of this section, the term "value" shall mean the cost of the home or building plus the unimproved land value.

(f) It shall be unlawful for any person to construct, erect, install, or move any industrialized housing or building into the city without having first obtained all required permits hereunder or pursuant to any other ordinance of the city applicable thereto. In addition to any other information required for said permits, the application shall:

(1) Identify each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located, and show the taxable value for each such dwelling as determined by the most recent certified tax appraisal roll for the county in which the property is located;

(2) Describe the exterior siding, roofing, roof pitch, foundation fascia, and fenestration for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is to be located;

(3) Describe the permanent foundation and method of attachment proposed for the industrialized housing;

(4) Demonstrate compliance with subsection (d)(1) of this section; and

(5) Provide deed restrictions applicable to the real property on which the industrialized housing is to be located.

(g) Industrialized commercial buildings shall be exempt from the requirements of subsections (f)(1), (2) and (4) of this section.

(Code 2005, § 50-248; Ord. No. 2004-10, § 1, 8-2-2004)

Sec. 50-249. State regulation.

All industrialized, modular housing or industrialized commercial structures shall comply with applicable state and federal standards, and to such end each applicant for an industrialized housing or building permit shall:

(1) Provide a complete set of design plans and specifications bearing the stamp of the state industrialized building code council for each installation within the corporate limits;

(2) Have displayed on all modules or modular components an approved state decal or insignia; and

(3) Obtain final inspections and occupancy tests and approvals as required to establish compliance with mandatory state codes.

(Code 2005, § 50-249; Ord. No. 2004-10, § 1, 8-2-2004)

Chapters 51--53

RESERVED

Chapter 54

OFFENSES AND MISCELLANEOUS PROVISIONS*

***State law reference**—Concurrent jurisdiction of municipal court concerning certain violations of state statutes, V.T.C.A., Government Code § 29.003(b); municipality may not enact or enforce a law making conduct covered under state Penal Code an offense subject to criminal penalty, V.T.C.A., Penal Code § 1.08; criminal trespass, V.T.C.A., Penal Code § 30.05.

ARTICLE I. IN GENERAL

Sec. 54-1. Discharging firearms; penalty.

It shall be unlawful for any person to discharge any gun, pistol or other firearm, or any air rifle or air pistol, of any description, within the corporate boundaries of the city. This section shall not be construed to prohibit an officer of the law from discharging a firearm in the performance of his duty, nor to any citizen from discharging a firearm when lawfully defending persons or property; provided, however, that the provisions of this section shall not be applicable to the discharge of firearms at bona fide gun clubs lawfully operating pursuant to the city zoning ordinance (Appendix C to this Code).

(Code 1974, § 12-1; Code 1994, § 54-1; Code 2005, § 54-1; Ord. No. 91-28, §§ 1, 2, 10-21-1991)

State law reference—Municipal authority to regulate discharge of firearms in municipal limits, V.T.C.A., Local Government Code § 229.001(b); firearms, V.T.C.A., Local Government Code § 229.001; offense of discharging weapons, V.T.C.A., Penal Code § 42.01(7)--(9).

Sec. 54-2. Open parties, possession of alcoholic beverages or drugs by minors; penalty.

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

Alcoholic beverage shall have the meaning as defined in V.T.C.A., Alcoholic Beverage Code § 1.04.

Controlled substance shall have the meaning as defined in V.T.C.A., Health and Safety Code § 481.002.

Minor means any person under the age of 21 years.

Open party means a social gathering at a residence or premises at which nonfamily or nonrelated persons are present.

Residence or *premises* means a motel room, hotel room, home, apartment, condominium, or other dwelling unit, including the curtilage of the dwelling unit, or a hall, meeting room, or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented or used with or without compensation.

(b) *Prohibition*. It shall be unlawful for any person owning or having possession or control of a residence or premises to allow an open party to take place at such residence or premises if alcoholic beverages or controlled substances are possessed, consumed or used by any minor thereat and if such person knew or reasonably should have known of the existence of such possession, consumption or use. It shall be a defense to prosecution under this section that such person took reasonable measures to prevent or eliminate any prohibited possession, consumption or use of an alcoholic beverage or controlled substance as set forth in this section.

(c) *Exceptions*. The provisions of this section shall not apply to:

(1) The possession, consumption or use of an alcoholic beverage by a minor while in the presence of such minor's parent, legal guardian, grandparent, or aunt or uncle if such parent, legal guardian, grandparent, or aunt or uncle is not a minor; or

(2) The possession, consumption or use of a controlled substance by a minor pursuant to a lawful prescription issued by a medical doctor.

(Code 1994, § 54-2; Code 2005, § 54-2; Ord. No. 91-11, § 4, 4-1-1991)

Secs. 54-3--54-22. Reserved.

ARTICLE II. CURFEW FOR MINORS*

***State law reference**—General authority for juvenile curfew, V.T.C.A., Local Government Code § 341.905; county juvenile curfew, V.T.C.A., Local Government Code § 351.903.

Sec. 54-23. Findings.

The facts and matters set forth in the preamble of the ordinance from which this article is derived are hereby found to be true and correct.

(Code 1994, § 54-31; Code 2005, § 54-23; Ord. No. 2002-14, § 1, 7-15-2002; Ord. No. 2005-18, § 1, 7-25-2005; Ord. No. 2008-23, § 1, 7-21-2008; Ord. No. 2017-35, § 1, 12-4-2017)

Sec. 54-24. Purpose.

It is the express purpose of this article to:

(1) Deter criminal conduct involving juveniles;

(2) Reduce the number of juvenile crime victims;

(3) Reduce injury from accidents involving juveniles;

(4) Reduce the additional time police officers are required to be in the field due to juvenile crime;

(5) Provide additional and more effective means and options for dealing with gang-related violence and crime;

(6) Reduce juvenile peer pressure to stay out late;

(7) Reduce juvenile peer pressure to participate in violence or criminal activities; and

(8) Assist parents in the control of their children.

(Code 1994, § 54-32; Code 2005, § 54-24; Ord. No. 2002-14, § 2, 7-15-2002; Ord. No. 2005-18, § 2, 7-25-2005; Ord. No. 2008-23, § 2, 7-21-2008; Ord. No. 2017-35, § 2, 12-4-2017)

Sec. 54-25. 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:

Curfew hours means:

(1) 12:01 a.m. until 5:00 a.m. on any day of the week; and

(2) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday; provided, however, the hours defined in this subsection shall not be considered as curfew hours for minors not subject to compulsory school attendance, pursuant to V.T.C.A., Education Code § 21.032, nor shall the hours defined in this subsection be considered as curfew hours on days or during periods in which the school where the applicable minor is enrolled have been cancelled under the order and direction of officials authorized to issue such orders and directives.

Emergency means any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Guardian means a person who, under court order, is the guardian of the person of a minor or a public or private agency with whom a minor has been placed by a court.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is a natural parent, adoptive parent, or stepparent of a minor, or a person at least 21 years of age who is authorized by the parent or guardian of a minor to have the care and custody of such minor.

Police department means the city police department.

Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, restaurants, theaters, game rooms, shops, shopping centers or any other place that offers for sale services or merchandise.

Remain means to linger or stay, or fail to leave premises, when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious bodily injury 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.

(Code 1994, § 54-33; Code 2005, § 54-25; Ord. No. 2002-14, § 3, 7-15-2002; Ord. No. 2005-18, § 3, 7-25-2005; Ord. No. 2008-23, § 3, 7-21-2008; Ord. No. 2017-35, § 3, 12-4-2017)

Sec. 54-26. Offenses.

(a) It shall be unlawful for any minor to knowingly remain, walk, run, or stand, or operate or ride in any motor vehicle or on any bicycle, in or upon any public place or on the premises of any establishment within the city during curfew hours.

(b) It shall be unlawful for the parent or guardian of a minor to knowingly permit or, by insufficient control, allow a minor to remain in or upon any public place or on the premises of any establishment within the city during curfew hours.

(c) It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of an establishment during curfew hours.

(Code 1994, § 54-34; Code 2005, § 54-26; Ord. No. 2002-14, § 4, 7-15-2002; Ord. No. 2005-18, § 4, 7-25-2005; Ord. No. 2008-23, § 4, 7-21-2008; Ord. No. 2017-35, § 4, 12-5-2017)

Sec. 54-27. Defenses.

(a) It shall be a defense to prosecution under section 54-26 that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in lawful employment activity, going directly to the employment activity, or returning directly to the minor's residence from the employment activity;

(5) Involved in an emergency;

(6) On an errand made necessary by an illness, injury, or emergency;

(7) On the sidewalk or public right-of-way abutting the minor's permanent residence;

(8) Attending a school, religious, government-sponsored, or other civic activity supervised by adults and sponsored by an educational, religious, or governmental institution, civic organization, or other similar entity, or traveling directly to or returning from any such school, religious, governmental, or civic activity;

(9) Engaged in, participating in, or traveling to or from any event, function, or activity for which the application of section 54-26 would contravene the minor's rights protected by the United States Constitution, including, but not limited to, First Amendment rights, such as the free exercise of religion, freedom of speech, or the right of assembly; or

(10) Married or had been married, or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.

(b) It is a defense to prosecution under section 54-26(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and the minor refused to leave.

(c) It is a defense to prosecution under section 54-26 that the minor had been directed by his parent or guardian to engage in a specific activity or to carry out expressed instructions during the time that the minor is actually engaged in fulfilling those directions or responsibilities.

(Code 1994, § 54-35; Code 2005, § 54-27; Ord. No. 2002-14, § 5, 7-15-2002; Ord. No. 2005-18, § 5, 7-25-2005; Ord. No. 2008-23, § 5, 7-21-2008; Ord. No. 2017-35, § 5, 12-5-2017)

Sec. 54-28. Enforcement.

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment. The officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response or other circumstance, no defense in section 54-27 is present.

(Code 1994, § 54-36; Code 2005, § 54-28; Ord. No. 2002-14, § 6, 7-15-2002; Ord. No. 2005-18, § 6, 7-25-2005; Ord. No. 2008-23, § 6, 7-21-2008; Ord. No. 2017-35, § 6, 12-5-2017)

Sec. 54-29. Penalties.

(a) A person who violates any provisions of this article shall be deemed guilty of a misdemeanor.

(b) When required by V.T.C.A., Family Code § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 54-26(a) and shall refer the minor to the juvenile court.

(Code 1994, § 54-37; Code 2005, § 54-29; Ord. No. 2002-14, § 7, 7-15-2002; Ord. No. 2005-18, § 7, 7-25-2005; Ord. No. 2008-23, § 7, 7-21-2008; Ord. No. 2017-35, § 7, 12-5-2017)

Secs. 54-30--54-46. Reserved.

ARTICLE III. PROTECTION OF CITIZENS, EMPLOYEES, MUNICIPAL PROPERTY

Sec. 54-47. Policy and intent.

It is the policy of the city to protect its employees, its citizens, and municipal property, and further to provide its employees with a safe workplace, free from abusive conduct, harassment, verbal or physical abuse, or other conduct which interferes with the efficient completion of city business. Similarly, the city wishes to provide its citizens and other users of city offices with polite, efficient and safe customer service and municipal facilities. It is not the intent of this section to preclude individuals from city services, or to limit the obtaining of information from city offices.

(Code 1994, § 54-40; Code 2005, § 54-47; Ord. No. 2000-18, § 1, 7-24-2000)

Sec. 54-48. Interfering with city officers and employees.

(a) For the purposes of this section, an officer or employee includes any permanent or temporary employee of the city, any work-study or educational program hires, and the mayor, city council members, and the members and alternate members of the boards, commissions and committees of the city.

(b) No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the city who is engaged in, en route to or returning from, the performance of official duties, whether such interference, hindrance or obstruction is by threat, assault, harassment, or other behavior.

(Code 1994, § 54-41; Code 2005, § 54-48; Ord. No. 2000-18, § 1, 7-24-2000)

Sec. 54-49. Carrying firearms prohibited.

(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:

Concealed handgun means a handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

Firearm means any device designed, made or adapted to expel a projectile through a barrel by using the energy generated by an explosive or burning substance or any device readily convertible to that use. The term "firearm" does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this section and that is:

(1) An antique or curio firearm manufactured before 1899; or

(2) A replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

Handgun has the meaning assigned by V.T.C.A., Penal Code § 46.01.

Public meeting of the city means all meetings, notice of which has been posted pursuant to the Open Meetings Law or city policy, and any other meeting of the mayor or city council or its individual members to which members of the public have been invited to attend.

(b) It is unlawful for a person, other than a person licensed to carry a concealed handgun under the authority of V.T.C.A., Government Code § 411.171 et seq., to carry a firearm at a:

(1) Public park;

(2) Public meeting of the city council;

(3) Political rally, parade or other official political meeting, unless the parade permit approved by the city council specifically authorizes the carrying of unloaded firearms during the parade;

(4) Non-firearms-related school, college or professional athletic event.

(c) The city manager, or his/her designee, is authorized to place or permit the placement of signs on all property and buildings, including any portion thereof, which are owned, leased, controlled, operated, used or managed by the city, which give notice, as provided by V.T.C.A., Penal Code §§ 30.05 and 30.06, that entry onto the city-owned, leased, controlled, operated, used or managed property and buildings, or portions thereof, by persons carrying concealed handguns or other weapons is forbidden. All city employees, independent contractors of the city, and persons holding a security officer commission issued by the state board of private investigators and private security agencies while performing contracted security services for the city are authorized to give a verbal notice, as provided by V.T.C.A., Penal Code § 30.05, that entry onto city-owned, leased, controlled, operated, used or managed property and buildings, or portions thereof, by persons carrying concealed handguns or other weapons is forbidden. All persons who enter or remain on property or buildings, or any portion thereof, which are owned, leased, controlled, operated, used or managed by the city, contrary to a posted or verbal notice, shall be considered trespassers.

(d) This section shall not apply to law enforcement officers licensed or commissioned pursuant to federal or state law, persons holding a security officer commission issued by the state board of private investigators and private security agencies while in the performance of their official duties, or members of the armed forces or national guard while in the performance of their official duties.

(e) Nothing in this section shall be construed to prohibit a person holding a valid concealed gun license holder from entering municipal government buildings during hours open to the public, the exception being those buildings containing court facilities or offices utilized by the court.

(Code 1994, § 54-50; Code 2005, § 54-74; Ord. No. 2000-18, § 1, 7-24-2000)

State law reference—Unlawful carrying of weapons, V.T.C.A., Penal Code § 46.02; places where weapons prohibited, V.T.C.A., Penal Code § 46.03; trespass by concealed handgun license holder, V.T.C.A., Penal Code § 30.06; municipal authority to regulate carrying of firearms in certain locations or at certain events, V.T.C.A., Local Government Code § 229.001(b).

Sec. 54-50. Penalties.

(a) Individuals believed to be violating the above standards shall be cited to appear before the appropriate court.

(b) Penalties shall be as established by law.

(c) Penalties may include the exclusion of an individual from certain or all city facilities.

(Code 1994, § 54-51; Code 2005, § 54-75; Ord. No. 2000-18, § 1, 7-24-2000)

Secs. 54-51--54-93. Reserved.

ARTICLE IV. NOISE*

***State law reference**—Presumption of unlawful noise, V.T.C.A., Penal Code § 42.01(c).

Sec. 54-94. 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:

Daytime hours means the hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

dB(A) means the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the slow meter response, as specified by the American National Standards Institute.

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

Emergency work means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Nighttime hours means the hours between 10:00 p.m. on one day and 7:00 a.m. the following day.

Nonresidential property means any real property within the limits of the city that is not included in the definition of residential property as defined in this section.

Person means any individual, association, partnership, or corporation, or other legal entity.

Property line means the line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office or any other type of occupancy.

Public right-of-way means any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or any other property that is owned or controlled by a governmental entity.

Residential property means any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

Sound nuisance means any sound which either exceeds the maximum permitted sound levels specified in section 54-95, or for purposes of sections 54-96 and 54-97, otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(Code 2005, § 54-94; Ord. No. 2004-27, § 2(54-110), 11-15-2004)

Sec. 54-95. Maximum permissible sound levels.

(a) No person shall conduct, permit or allow any activity or sound source to produce a sound that is discernible beyond the property lines of the property on which the sound is being received that when measured as provided in section 54-102 exceeds the applicable dB(A) level listed below for the property on which the sound is received.

(1) *Residential property.*

a. 65 dB(A) during daytime hours.

b. 58 dB(A) during nighttime hours.

(2) *Nonresidential property.* 70 dB(A) during either daytime or nighttime hours.

(b) The dB(A) levels set forth in this section apply to the property where the sound is being received. Any sound that when measured at the property where the sound is being received exceeds the dB(A) levels set forth in this section is a violation of this article. Evidence that an activity or sound source produces a sound that exceeds the dB(A) levels specified in this section,

when measured at the site where the sound is being produced, if available, shall be prima facie evidence of a sound nuisance which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city in violation of this article.

(Code 2005, § 54-95; Ord. No. 2004-27, § 2(54-111), 11-15-2004)

Sec. 54-96. General prohibition.

(a) It shall be unlawful for any person to make, assist in making, permit, continue, cause to be made or continued or permit the continuance of any sound which either exceeds the maximum permitted sound levels specified in section 54-95, or for purposes of this section and section 54-98, otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety or others within the limits of the city.

(b) The acts enumerated in the following sections of this article, among others, are declared to be sound nuisances that are unreasonably loud, disturbing, or constitute excessive sounds in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Code 2005, § 54-96; Ord. No. 2004-27, § 2(54-112), 11-15-2004)

Sec. 54-97. Noisy vehicles generally.

The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such a manner so as to create loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited and declared to be unlawful.

(Code 2005, § 54-97; Ord. No. 2004-27, § 2(54-113), 11-15-2004)

Sec. 54-98. Amplified sound from meter vehicle.

The production or reproduction of sound from amplification equipment contained in or mounted on a motor vehicle that produces sound in excess of the limits set forth in section 54-95, when measured at or near 15 feet from the nearest external point on the vehicle, is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, except as permitted by section 54-103.

(Code 2005, § 54-98; Ord. No. 2004-27, § 2(54-114), 11-15-2004)

Sec. 54-99. Noisy animals and birds.

The keeping of any animal or bird which causes or makes frequent or long and continued sound which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of ordinary, reasonable persons of normal sensibilities and ordinary tastes, habits and modes of living who reside in the vicinity thereof is hereby prohibited and declared to be unlawful as a sound nuisance in violation of this article, regardless of whether the sound so created by said animal or bird is within the permissible levels specified in section 54-95.

(Code 2005, § 54-99; Ord. No. 2004-27, § 2(54-115), 11-15-2004)

Sec. 54-100. Trash collection.

The collection of trash and refuse by a contractor or private individual from a commercial establishment located on property which is adjacent to residential uses between the hours of 9:00 p.m. and 8:00 a.m.

(Code 2005, § 54-100; Ord. No. 2004-27, § 2(54-116), 11-15-2004)

Sec. 54-101. Defenses.

The following defenses shall apply to any offense established in this article:

(1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger or attempted crime.

(2) The sound was produced by an authorized emergency vehicle.

(3) The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster.

(4) The sound was generated:

a. At a lawfully scheduled stadium event;

b. By a parade and spectators and participants on the parade route during a permitted parade;

c. By spectators and participants at a lawfully scheduled amphitheater event;

d. By patrons and participants using cannons and gunfire during historical battle reenactments for which a pyrotechnic permit was obtained and the explosives were inspected by the fire marshal;

e. By a pyrotechnic display that was inspected and approved by the fire marshal;

f. By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city; or

g. By any other lawful activity that constitutes protected expression pursuant to the First Amendment of the United States Constitution.

(5) The sound was produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted between the hours of 7:00 a.m. and 8:00 p.m. and which activity did not produce a sound exceeding 75 dB(A) when measured from the nearest residential property where the sound is being received.

(6) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.

(7) The sound was produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, or any other similar device used between the hours of 7:00 a.m. and 8:00 p.m. and which device did not produce a sound exceeding 85 dB(A) when measured from the nearest residential property where the sound is being received and was used for the maintenance or upkeep of the property on which it was used.

(8) The sound was generated as authorized under the terms of a permit issued under section 54-103.

(9) The sound was produced by the operation of any air conditioning unit which did not produce a sound exceeding 65 dB(A) on residential property or 75 dB(A) on nonresidential property, when measured at or near 15 feet from the air conditioning unit producing the sound being measured.

(10) The sound was produced by church bells or church chimes when used as part of a religious observance or service during daytime hours and which did not exceed five continuous minutes in duration in any one-hour period.

(Code 2005, § 54-101; Ord. No. 2004-27, § 2(54-117), 11-15-2004)

Sec. 54-102. Methods of sound measurement.

Whenever portions of this article prohibit sound over a certain decibel limit, measurement of said should shall be made with a Type 1 or Type 2 calibrated sound level meter utilizing the A-

weighting seals and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A). Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated as dB(A). Meters shall be maintained in calibration and good working order. Calibrations shall be employed which meet ANSI Sl.40-1984 prior to and immediately after every sampling of sound. Measurements recorded shall be taken so as to provide a proper representation of the sound being measured. The microphone of said meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for said microphone shall be used. Except as provided in sections 54-98 and 54-99, measurements shall be taken at or near the nearest property line of the property where the sound is being received.

(Code 2005, § 54-102; Ord. No. 2004-27, § 2(54-118), 11-15-2004)

Sec. 54-103. Permit required for use of outdoor sound amplification equipment.

(a) No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner which exceeds the levels specified in section 54-95, when measured from the property where the sound is being received, without first obtaining a permit to do so. Such permit:

(1) May be obtained by making application to the director of the city department so designated by the mayor.

(2) Requires payment of a fee for the administrative costs of issuing the permit as set by resolution and printed in Appendix D to this Code.

(3) Is valid for one 14-hour period between the hours of 8:00 a.m. and 10:00 p.m.

(4) Shall not be issued for the same location more than twice during any 30-day period.

(5) Shall not authorize, allow, or otherwise permit the production, reproduction, or amplification of sound which exceeds 75 dB(A) when measured from the nearest receiving property.

(b) The use of any loudspeaker, loudspeaker system, sound amplifier or any other similar machine or device which is permitted pursuant to this section is subject to the following regulations:

(1) The only sound permitted shall be either music or human speech, or both.

(2) The volume of the sound amplified pursuant to this section shall not exceed 75 dB(A) when measured from the nearest receiving property.

(3) No equipment permitted pursuant to this section shall be operated during the hours between 10:00 p.m. and 8:00 a.m.

(c) The application for the permit required to be filed pursuant to this section shall contain the following information:

(1) The date of the application and the date and hours for which the permit is requested.

(2) The name, address and primary e-mail address of the applicant.

(3) The name, address and primary e-mail address of the person who will have charge of the sound amplifying equipment.

(4) The purpose for which the sound equipment will be used.

(5) The address and a description of the location where the sound equipment will be used.

(6) A description of the type of sound amplifying equipment to be used.

(d) If an applicant for a permit under this section is unable to pay the full amount of the permit fee pursuant to subsection (a) of this section, the fee shall be reduced to that amount the applicant is able to pay, provided the applicant submits a sworn affidavit containing the following information:

(1) A statement that the applicant and the group or organization, on whose behalf he is making the application, are unable to pay the full amount of the permit fee.

(2) A statement that the applicant and the group or organization, on whose behalf he is making the application, have made diligent efforts to raise money to pay the permit fee.

(3) A statement of the exact amount the applicant and the group or organization, on whose behalf he is making the application, is able to pay for the permit fee.

(Code 2005, § 54-103; Ord. No. 2004-27, § 2(54-119), 11-15-2004)

Sec. 54-104. Penalty.

Any person who violates any provision of this article is guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than $50.00 nor more than $1,000.00. Upon a second or subsequent conviction for a violation of this article within a 12-month period, said person shall be fined not less than $100.00 nor more than $2,000.00. Each day that any violation continues shall constitute a separate offense. To the extent that any conduct prohibited under this article also constitutes an offense under state law, then it shall be punishable as provided by state law.

(Code 2005, § 54-104; Ord. No. 2004-27, § 2(54-120), 11-15-2004)

Sec. 54-105. Zoning standards.

There are standards for exterior noise contained in section 8.J.2 of the zoning ordinance of the city (Appendix C to this Code) that are also found to be a nuisance under this article and are hereby prohibited.

(Code 2005, § 54-105; Ord. No. 2004-27, § 2(54-121), 11-15-2004)

Secs. 54-106--54-120. Reserved.

ARTICLE V. ALARM SYSTEMS*

***State law reference—**Burglar alarm systems, V.T.C.A., Local Government Code § 214.191 et seq.; duration of municipal permit, V.T.C.A., Local Government Code § 213.193; maximum $50.00 fee for annual municipal permit, V.T.C.A., Local Government Code § 214.194; local governments cannot enact ordinances inconsistent with state law regarding fire alarm systems, V.T.C.A., Insurance Code § 6002.003; license holders for emergency alarm systems installation and operation, exempt from certain local regulations, V.T.C.A., Occupations Code § 1702.134; municipality may charge reasonable inspection fees for device causing five false alarms in 12-month period, V.T.C.A., Occupations Code § 1702.134(b)(2).

Sec. 54-121. 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 administrator means a person designated by the governing authority to administer, control and review false alarm reduction efforts and administers the provisions of this article.

Alarm dispatch request means a notification to the city that an alarm has been activated at a particular alarm site and that city emergency service is requested.

Alarm installation company means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site.

Alarm permit means authorization granted by the alarm administrator to an alarm user to operate an alarm system.

Alarm permit application means the written application for an alarm permit filed by an alarm user with the alarm administrator.

Alarm site means a single fixed premises or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multi-unit building or complex, shall be considered a separate alarm site, and is further defined by the following categories:

Commercial site means every premises or location where any business activity is regularly conducted and which is served by an alarm system. Each unit of a business premises or business location, if served by a separate alarm system in a multi-unit building or complex, shall be considered a separate commercial alarm system site.

Educational/government site means every premises or location of a public or private school or school administrative office and every premises or location of any federal, state, county or municipal governmental office.

Financial site means every premises or location of a financial institution which is required to have an alarm system pursuant to the Bank Protection Act of 1968 (12 USC 1882).

Residential site means a single-family residence and each residential unit of a multi-unit building or complex which is served by an alarm system.

Alarm system means a device or system that transmits a signal intended to summon a city emergency service response. The term "alarm system" includes an alarm that emits an audible signal on the exterior of a structure. The term "alarm system" does not include an alarm installed on a vehicle, unless the vehicle is used for a habitation at a permanent site, or an alarm designed to alert only the inhabitants within the premises.

Alarm user means any person who owns or operates an alarm system at an alarm site.

Arming station means a device that allows control of an alarm system.

Automatic voice dialer means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a city emergency service requesting dispatch.

Cancellation means the process where response is terminated when a monitoring company (designated by the alarm user) for the alarm site notifies the responding city emergency service that there is not an existing situation at the alarm site requiring a response after an alarm dispatch request.

City emergency service means any emergency service provided by the city, including police, fire, and emergency medical services.

Duress alarm means a silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system and requires law enforcement response.

False alarm means an alarm dispatch request that has generated a city emergency service response, which is canceled, or when no emergency condition is found at the alarm site. A false alarm shall not be considered to have occurred unless a response is made by an agency of the city within 30 minutes of the alarm notification and the agency determines from an inspection of the interior or exterior of the premises that the alarm was false.

Holdup alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Local alarm system means any alarm system, which is not monitored, that emits an audible alarm only at the alarm site.

Monitoring means the process by which a monitoring company receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning city emergency services to the alarm site.

Monitoring company means a person in the business of providing monitoring services.

Panic alarm means an audible alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring emergency response.

Responder means an individual capable of reaching the alarm site within 30 minutes and having access to the alarm site, the code to the alarm system and the authority to approve repairs to the alarm system.

SIA Control Panel Standard CP-01 means the ANSI - American National Standard Institute approved Security Industry Association - SIA CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."

Transfer means the transaction or process by which an alarm user takes over control of an existing alarm system, which was previously controlled by another alarm user.

Verify means an attempt by the monitoring company, or its representative, to contact the alarm site and/or alarm user by telephone and/or other electronic means, whether or not actual contact with a person is made, to determine whether an alarm signal is valid before requesting city emergency service dispatch, in an attempt to avoid an unnecessary alarm dispatch request. For the purpose of this article, telephone verification shall require, as a minimum, that a second call be made to a different number if the first attempt fails to reach an alarm user who can properly identify themselves to determine whether an alarm signal is valid before requesting an emergency response.

Zones mean division of devices into which an alarm system is divided to indicate the general location from which an alarm system signal is transmitted.

(Code 2005, § 54-121; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-122. Permit required; application; fee; transferability; false statements.

(a) No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit. A separate alarm permit is required for each alarm site.

(b) The fee for an alarm permit or an alarm permit renewal is set by resolution and printed in Appendix D to this Code and shall be paid by the alarm user. No refund of a permit or permit renewal fee will be made. The initial alarm permit fee must be submitted to the alarm administrator within five days after the alarm system installation or an alarm system transfer.

(c) Upon receipt of a completed alarm permit application form and the alarm permit fee, the alarm administrator shall register the applicant unless the applicant has:

(1) Failed to pay a fine assessed under section 54-127; or

(2) Had an alarm permit for the alarm site suspended and the violation causing the suspension has not been corrected.

(d) Each alarm permit application must include the following information:

(1) The name, complete address (including apartment/suite number), primary e-mail address and telephone numbers of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;

(2) The classification of the alarm site as either residential (includes apartment, condo, mobile home, etc.), commercial, financial, or educational/government;

(3) For each alarm system located at the alarm site, the classification of the alarm system (i.e., burglary, holdup, fire, emergency medical, duress, panic alarms or other) and for each classification whether such alarm is audible or silent;

(4) Mailing address, if different from the address of the alarm site;

(5) Any dangerous or special conditions present at the alarm site;

(6) Names and telephone numbers of at least two individuals who are able and have agreed to:

a. Receive notification of an alarm system activation at any time;

b. Respond to the alarm site within 30 minutes at any time; and

c. Upon request, grant access to the alarm site and deactivate the alarm system if necessary;

(7) Type of business conducted at a commercial alarm site;

(8) Signed certification from the alarm user stating the following:

a. The date of installation or transfer of the alarm system, whichever is applicable;

b. The name, address, primary e-mail address and telephone number of the alarm installation company or companies performing the alarm system installation or transfer and of the alarm installation company responsible for providing repair service to the alarm system;

c. The name, address, primary e-mail address and telephone number of the monitoring company if different from the alarm installation company;

d. That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, have been left with the applicant by the alarm installation company;

e. An acknowledgment that the alarm installation company has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms; and

f. An acknowledgment that the alarm user understands and agrees that a city emergency service response may be influenced by factors, including, but not limited to, the availability of city emergency service units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.

(e) Any false statement of a material fact made by an applicant for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit or for suspension of an existing permit.

(f) An alarm permit cannot be transferred to another person or alarm site. An alarm user shall inform the alarm administrator of any change that alters any of the information listed on the alarm permit application within five business days of such change.

(g) All fines and fees owed by an applicant must be paid before an alarm permit may be issued or renewed.

(Code 2005, § 54-122; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-123. Alarm permit duration and renewal.

An alarm permit shall expire 12 months from the date of issuance, and must be renewed annually by submitting an updated application and a permit renewal fee to the alarm administrator. It is the responsibility of the alarm user to submit an application prior to the permit expiration date. Failure to renew will be classified as use of a nonpermitted alarm system and fines shall be assessed. A late fee may be assessed if the renewal is more than 30 days late.

(Code 2005, § 54-123; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-124. Duties of the alarm user.

(a) An alarm user shall:

(1) Maintain the alarm site and the alarm system in a manner that will minimize or eliminate false alarms;

(2) Make every reasonable effort to have a responder arrive at the alarm system's location within 30 minutes when requested by a city emergency service in order to:

a. Deactivate an alarm system;

b. Provide access to the alarm site; and/or

c. Provide alternative security for the alarm site;

(3) Not activate an alarm system for any reason other than an occurrence of an event that the alarm system was intended to report.

(b) An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than ten minutes after being activated.

(c) An alarm user shall not use automatic voice dialers.

(d) An alarm user shall maintain at each alarm site, a set of written operating instructions for each alarm system.

(e) All alarm users shall review with their alarm installation company and/or monitoring company the customer false alarm prevention checklist (see section 54-134) or an equivalent checklist approved by the alarm administrator and acknowledge their understanding of false alarm prevention procedures by signing and dating same. A fully executed copy of the customer false alarm prevention checklist shall be filed with the original application for an alarm permit.

(Code 2005, § 54-124; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-125. Duties of alarm installation company and monitoring company.

(a) The alarm installation company shall provide written and oral instructions to each of its alarm users in the proper use and operation of their alarm systems. Such instructions will specifically include all instructions necessary to turn the alarm system on and off and to avoid false alarms.

(b) Upon the effective date of the ordinance from which this article is derived, alarm installation companies shall not install a device to activate a holdup alarm which is a single action, non-recessed button.

(c) Ninety days after enactment of the ordinance from which this article is derived, the alarm installation companies shall, on new installations, use only alarm control panels which meet SIA Control Panel Standard CP-01.

(d) An alarm company shall not use automatic voice dialers.

(e) After completion of the installation of an alarm system, an alarm installation company employee shall complete, sign and date the installer false alarm prevention program checklist (section 54-133) or an equivalent checklist approved by the alarm administrator.

(f) The alarm installation company shall maintain a copy of each completed, signed and dated installer false alarm prevention program checklist for a period of two years.

(g) A monitoring company shall:

(1) Report alarm signals by using telephone numbers designated by the alarm administrator;

(2) Verify every alarm signal, except a duress or holdup alarm activation, before requesting a city emergency service response to an alarm system signal;

(3) Communicate alarm dispatch requests to the city in a manner and form determined by the alarm administrator;

(4) Communicate cancellations to the city in a manner and form determined by the alarm administrator;

(5) Ensure that all alarm users of alarm systems equipped with a duress, holdup or panic alarm are given adequate training as to the proper use of the duress, holdup or panic alarm;

(6) Communicate any available information (north, south, front, back, floor, etc.) about the location on all alarm signals related to the alarm dispatch request;

(7) Communicate type of alarm activation (silent or audible, interior or perimeter);

(8) Provide the address of the alarm site;

(9) After an alarm dispatch request, promptly advise the responding city emergency service if the monitoring company knows that the alarm user or the responder has or has not been contacted;

(10) Upon the effective date of the ordinance from which this article is derived, monitoring companies must maintain for a period of at least one year from the date of the alarm dispatch request, records relating to alarm dispatch requests. Records must include the name, address, primary e-mail address and telephone number of the alarm user, the alarm system zone activated, the time of alarm dispatch request and evidence of an attempt to verify. The alarm administrator may request copies of such records for individually named alarm users. If the request is made within 60 days of an alarm dispatch request, the monitoring company shall furnish requested records within ten business days of receiving the request. If the records are requested between 60 days to one year after an alarm dispatch request, the monitoring company shall furnish the requested records within 30 days of receiving the request.

(h) An alarm installation company and/or monitoring company that purchases alarm system accounts from another person shall notify the alarm administrator of such purchase and provide details as may be reasonably requested by the alarm administrator.

(Code 2005, § 54-125; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-126. Duties and authority of the alarm administrator.

(a) The alarm administrator shall:

(1) Designate a manner, form and telephone numbers for the communication of alarm dispatch requests; and

(2) Establish a procedure to accept cancellation of alarm dispatch requests.

(b) The alarm administrator shall establish a procedure to record such information on alarm dispatch requests necessary to permit the alarm administrator to maintain records, including, but not limited to, the information listed below.

(1) Identification of the permit number for the alarm site;

(2) Identification of the alarm site;

(3) Date and time alarm dispatch request was received;

(4) Date and time of the city emergency service arrival at the alarm site and the disposition of the call.

(c) The alarm administrator shall establish a procedure for the notification to the alarm user of a fineable false alarm.

(d) The alarm administrator may require a conference with an alarm user and the alarm installation company and/or monitoring company responsible for the repair or monitoring of the alarm system to review the circumstances of each false alarm.

(e) The alarm administrator may create and implement an alarm user awareness class. The alarm administrator may request the assistance of associations, alarm companies and law enforcement agencies in developing and implementing the class. The class shall inform alarm users of the problems created by false alarms and teach alarm users how to avoid generating false alarms.

(f) The alarm administrator may require an alarm user to remove a holdup alarm that is a single action, non-recessed button, if a false holdup alarm has occurred.

(Code 2005, § 54-126; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-127. Fines.

(a) An alarm user shall be subject to fines, depending on the number of false alarms within any 12-month period based upon the schedule set forth in Appendix D to this Code.

(b) In addition, any person operating a nonpermitted alarm system will be subject to a fine (see Appendix D to this Code) for each false alarm in addition to any other fines. The alarm administrator may waive this additional fine for a non-permitted system if the alarm user submits an application for alarm permit within ten days after notification of such violation.

(c) The alarm installation company shall be subject to a fine (see Appendix D to this Code) if the responding city emergency service determines that an on-site employee of the alarm installation company directly caused the false alarm. In this situation, the false alarm will not be counted against the alarm user.

(d) The monitoring company shall be subject to a fine (see Appendix D to this Code) for each failure to verify alarm system signals as specified in section 54-125(g)(2).

(e) The alarm installation company shall be subject to a fine (see Appendix D to this Code) if the alarm administrator determines that an alarm installation company employee knowingly made a false statement concerning the inspection of an alarm site or the performance of an alarm system.

(f) Notice of the right of appeal under this article will be included with any fines.

(Code 2005, § 54-127; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-128. Suspension of permit.

(a) The alarm administrator may suspend any alarm permit upon the occurrence of any of the following conditions:

(1) If the alarm user provides any false information in, or in connection with, an alarm permit application;

(2) If an alarm site has more than 12 false alarms in any 12-month period; or

(3) If any fines assessed by the alarm administrator become 180 days or more past due.

(b) An alarm user may appeal the suspension of an alarm permit in accordance with the provision for appeals set forth in this article.

(c) The alarm administrator will notify the alarm user in writing after the alarm permit has been suspended and the reason for the suspension. The notice of suspension may also include the amount of the fine for each false alarm, if applicable.

(Code 2005, § 54-128; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-129. Appeals.

(a) If the alarm administrator assesses a fine or denies the issuance, renewal or reinstatement of an alarm permit, the alarm administrator shall send written notice of the action and a statement of the right to an appeal to the affected applicant or alarm user and the alarm installation company and/or monitoring company.

(b) The alarm user, alarm installation company or monitoring company may appeal an assessment of a fine or the suspension of an alarm permit to the alarm administrator by setting forth in writing the reasons for the appeal within ten business days after receipt of the fine or notice of suspension and by submitting a certified check in the amount set by resolution and printed in Appendix D to this Code payable to the city to cover the cost of processing the appeal. The payment for the cost of the appeal will not be refunded.

(c) The alarm user, alarm installation company or monitoring company may appeal the decision of the alarm administrator by requesting, within ten business days from the date of the decision, that the alarm administrator forward the appeal to the city manager. The alarm administrator will, within five business days of such a request, provide the city manager with notice of the appeal. The city manager shall, within a period of 30 days from receipt of the notice of appeal from the alarm administrator, hear the appeal and the facts as presented by the appellant and the alarm administrator, affording both parties a reasonable and equal amount of time for the presentation of facts, evidence, and the questioning and cross examination of witnesses. Within ten business days of the hearing, the city manager shall render a final, written decision affirming or reversing the decision of the alarm administrator. Such written decision shall be filed with the city secretary.

(d) Filing of a notice of appeal shall stay the action by the alarm administrator suspending an alarm permit or requiring payment of a fine, until the city manager has rendered a decision. If a request for an appeal to the city manager is not made within the required ten business day period, the action of the alarm administrator is final.

(e) The alarm administrator may adjust the count of false alarms based on:

(1) Evidence that a false alarm was caused by an act of God;

(2) Evidence that a false alarm was caused by action of the telephone company;

(3) Evidence that a false alarm was caused by a power outage lasting longer than four hours;

(4) Evidence that the alarm dispatch request was not a false alarm; and/or

(5) Evidence that a city emergency service response was not completed in a timely fashion.

(f) With respect to fines of an alarm installation company or monitoring company the alarm administrator may take into consideration whether the alarm company or monitoring company has engaged in a consistent pattern of violations.

(Code 2005, § 54-129; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-130. Reinstatement of suspended permit.

(a) A person whose alarm permit has been suspended may, at the discretion of the alarm administrator, have the alarm permit reinstated by the alarm administrator if the person:

(1) Submits a new application and pays a reinstatement fee (see Appendix D to this Code);

(2) Pays, or otherwise resolves, all outstanding citations and fines; and

(3) Submits a certification from an alarm installation company, stating that the alarm system has been inspected and repaired (if necessary) by the alarm installation company.

(b) In addition, the alarm administrator may require one or more of the following as a condition to reinstatement:

(1) Proof that an employee of the alarm installation company or monitoring company caused the false alarm;

(2) A certificate showing that the alarm user has successfully completed the alarm user awareness class as provided under section 54-126(e);

(3) Upgrade the alarm control panel to meet SIA Control Panel Standard CP-01;

(4) A written statement from an independent inspector that the alarm system has been inspected and is in good working order;

(5) Confirmation that all motion detectors are "dual technology" type;

(6) Confirmation that the alarm system requires two independent zones to trigger before transmitting an alarm signal to the monitoring company;

(7) Confirmation that the alarm system requires two independent detectors to trigger before transmitting an alarm signal to the monitoring company;

(8) Certification that the monitoring company will not make an alarm dispatch request unless the need for a city emergency service is confirmed by a listen-in device;

(9) Certification that the monitoring company will not request an alarm dispatch unless the need for a city emergency service response is confirmed by a camera device; or

(10) Certification that the monitoring company will not make an alarm dispatch request unless the need for a city emergency service response is confirmed by a person at the alarm site.

(Code 2005, § 54-130; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-131. Confidentiality.

In the interest of public safety, all information contained in and gathered through the alarm permit applications and applications for appeals shall be held in confidence by all employees or representatives of the city and by any third-party administrator or employees of a third-party administrator with access to such information, to the extent permitted by law.

(Code 2005, § 54-131; Ord. No. 2008-36, § 1, 10-20-2008)

Sec. 54-132. Governmental immunity.

An alarm permit is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, for a city emergency response. Any and all liability and consequential

damage resulting from the city's failure or inability to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that a city emergency response may be influenced by factors such as the availability of city emergency service units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

Sec. 54-133. Installer false alarm prevention program checklist.

Yes	No		
		1.	If a duress feature was installed, I thoroughly explained it and I did not program the system so that the duress code is only one digit different than the normal code.
		2.	I checked that the control panel has been programmed so that:
		a.	It will not transmit more than one alarm signal from the same zone until manually restored at the premises;
		b.	It will delay at least 15 seconds before initiating dialing on intrusion alarm signals;
		c.	It has adequate delay time on entry/exit doors (delay of 45 seconds or more is recommended); and
		d.	A cancel code can be entered by the customer to cancel accidental alarms.
		3.	I checked that police and fire panic buttons cause a siren or speaker to sound and that medical panic buttons cause an audible signal.
		4.	I checked that the arming station(s) emit sound to inform occupants when an entry/exit door sensor has been triggered.
		5.	I installed and tested standby/backup power.
		6.	I reviewed the "Customer False Alarm Prevention Checklist" with the customer.
		7.	I determined whether the customer had special telephone features, such as call waiting or DSL, and took appropriate steps to allow proper control panel dialing and monitoring center verification. (Such as *70 for call waiting, etc.)
		8.	I checked the control panel was properly grounded to the manufacturer's specifications.
		9.	I checked that all door and window contacts were properly selected, installed and tested. I considered loose fitting doors and windows, whether wide gap contacts were needed, and steel doors and windows. I followed the manufacturer's installation instructions.
		10.	I checked all glass breakage sensors were properly selected, installed and tested. I gave consideration to pets, on-site noises and the general environment. I followed the manufacturer's installation instructions.

		11.	All motion type detectors were properly selected, properly installed and tested. I gave consideration to pets, sunlight, other heat sources, and harsh environments. I followed the manufacturer's installation instructions.
Please explain if you answered "No" to any of the above items:			
Installation Technician			

Printed Name	Signature
Date	

Sec. 54-134. Customer false alarm prevention checklist.

Yes	No		
		1.	I have been made aware of the applicable alarm ordinance and I will comply with its requirements.
		2.	I understand it is my responsibility to prevent false alarms, and I understand it is critical and my responsibility to ensure that all users of the system (such as residents, employees, guests, cleaning people, and repair people) are trained on the proper use of the system.
		3.	I have been trained in the proper operation of the system and have been given an operating sheet summarizing the proper use of the system, as well as the security system operating manual.
		4.	I know how to turn off motion detectors while leaving other sensors on. (Residential Only)
		5.	I know how to test the system, including the communication link with the monitoring center.
		6.	I understand that my entry time is ____ and my exit time is ____.
		7.	I have the alarm company phone number to request repair service or to ask questions about the alarm system.
		8.	I know how to cancel an accidental alarm activation and have the system cancellation code or code word.
		9.	I understand that indoor pets can cause false alarms and I will contact my alarm company to adjust the system if I acquire any additional indoor pets.

		10.	I understand that the main control panel and transformer are located in _____.
		11.	I have received an alarm sheet, which describes how the alarm company will communicate with me in the event of various alarm signals.
		12.	I understand the importance of:
			Keeping my emergency contact information updated and I know how to do this;
			Immediately advising the alarm company if my phone number changes (including area code changes); and
			Immediately advising the alarm company of any other changes to my telephone service such as call waiting or a fax line.
		13.	I will advise the alarm company if I do any remodeling (such as painting, moving walls, doors or windows).
		14.	I understand that certain building defects (such as loose fitting doors or windows, rodents, inadequate power, and roof leaks) can cause false alarms. I will correct these defects as I become aware of them.
		15.	The alarm company has given me written false alarm prevention techniques to help me prevent false alarms.
Comments:			
ALARM COMPANY CUSTOMER			
Print Name(s)	By:		
Signature(s)	Date		

(Code 2005, § 54-132; Ord. No. 2008-36, § 1, 10-20-2008)

Secs. 54-135--54-189. Reserved.

ARTICLE VI. SEX OFFENDERS

Sec. 54-190. 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:

Child or *children* means a person under 18 years of age.

Childcare facility means a facility providing for the supervision, care, or education of children, including, but not limited to, a day care, Montessori School, day camp, Mother's Day Out Program, a facility providing after school care; a church or other place of worship that provides children's programs or activities, childcare, or nursery services, even if only incidental to religious worship; or a public or private park facility designed and utilized for organized children's activities.

Penal institution shall have the same meaning as that found in V.T.C.A., Code of Criminal Procedure art. 62.001(3).

Reside or *residing* means a temporary or permanent property or possessory interest in a residence, including a stay as an overnight guest.

Residence means a house, apartment or other dwelling in which a person lives.

Reportable conviction or adjudication shall have the same meaning as that found in V.T.C.A., Code of Criminal Procedure art. 62.001(5).

School means a public or nonpublic elementary or secondary school.

Sex offender means a person with a reportable conviction or adjudication who is required to register with the state department of public safety under the provisions of V.T.C.A., Code of Criminal Procedure ch. 62.

Sexual offense means those offenses requiring registration with the state department of public safety under the provisions of V.T.C.A., Code of Criminal Procedure ch. 62.

(Code 2005, § 54-190; Ord. No. 2006-08, § 2, 6-26-2006)

Sec. 54-191. Residency restrictions; childcare facilities and schools.

It shall be unlawful for a sex offender with a reportable conviction or adjudication for a sexual offense in which the victim was a child to reside within 2,000 feet of a school or childcare facility.

(Code 2005, § 54-191; Ord. No. 2006-08, § 2, 6-26-2006)

Sec. 54-192. Exemptions.

The following persons shall be exempt from the provisions of this article:

(1) A sex offender who established a residence located within 2,000 feet of a school or childcare facility prior to the effective date of the ordinance from which this article is derived.

(2) A sex offender residing within 2,000 feet of a school or childcare facility constructed after the effective date of the ordinance from which this article is derived.

(3) A sex offender incarcerated at a penal institution located within 2,000 feet of a school or childcare facility.

(4) A sex offender who is under 17 years of age or a ward under a guardianship residing within 2,000 feet of a school or childcare facility and residing with a person responsible for the person's care and supervision.

(Code 2005, § 54-192; Ord. No. 2006-08, § 2, 6-26-2006; Ord. No. 2008-44, § 2, 12-15-2008)

Sec. 54-193. Calculation of distance between residence and childcare facility or school.

For the purposes of this article, the distance between a residence and a school or childcare facility shall be measured from the property line of the school or childcare facility to the property line of the residence.

(Code 2005, § 54-193; Ord. No. 2006-08, § 2, 6-26-2006)

Sec. 54-194. Reserved.

ARTICLE VII. ILLICIT SYNTHETIC DRUGS

Sec. 54-195. 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:

Herbal incense means aromatic plant material, whether referred to as potpourri or otherwise, that is distributed in a loose, leafy, powder or granular form or in a compressed block or blocks that can be crushed to result in a powder or granular form, and can be placed into a pipe, cigarette paper, or other drug paraphernalia for purposes of ingestion by smoking, inhaling or other method, regardless of how the substance is labeled or marketed, including, but not limited to, whether or not such product is labeled as not for human consumption.

Illicit synthetic drug means:

(1) Any vegetative material, or herbal or plant material, however constituted, designed, intended, marketed, manufactured, or engineered, that contains any quantity of a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product.

(2) Any vegetative material, or herbal or plant material, with packaging or labeling that indicates, suggests, or implies that the substance is a substitute for or otherwise mimics the pharmacological effects of marihuana ("marijuana"), a controlled substance, or a controlled substance analogue as defined by V.T.C.A., Health and Safety Code § 481.002.

(3) Any vegetative material, or herbal or plant material, offered for sale or sold with verbal or written representations regarding the purpose, methods, use, or effect of the substance that indicates, suggests, or implies that the substance mimics the pharmacological effects of marihuana ("marijuana"), a controlled substance, or a controlled substance analogue as defined by V.T.C.A., Health and Safety Code § 481.002.

(Code 2005, § 54-195; Ord. No. 2014-37, § 2(54-195), 1-5-2015)

Sec. 54-196. Prohibition of illicit synthetic drug.

It shall be unlawful for any person to possess, provide, sell, barter, produce, manufacture, distribute, or to offer, display, market or advertise for sale, or purchase with the intent to provide, sell barter, produce, manufacture, or distribute, or to offer, display, market or advertise for sale any illicit synthetic drug.

(Code 2005, § 54-196; Ord. No. 2014-37, § 2(54-196), 1-5-2015)

Sec. 54-197. Failure to publicly display or label herbal incense.

(a) Herbal incense offered for sale to the public must be publicly displayed at all times through actual or representative packaging.

(b) All herbal incense offered for sale to the public must include a label listing each active ingredient.

(Code 2005, § 54-197; Ord. No. 2014-37, § 2(54-197), 1-5-2015)

Sec. 54-198. Penalty.

(a) Any violation of section 54-196 is a misdemeanor. Each separate package, container, or other separate unit containing an illicit synthetic drug shall constitute a separate and distinct offense.

(b) Any violation of section 54-197 is a misdemeanor. Each separate package, container, or other separate unit containing any herbal incense shall constitute a separate and distinct offense.

(c) Prosecution or conviction under this article is cumulative of and shall never be a bar to any other civil or administrative remedy provided or allowed in this article or by law.

(Code 2005, § 54-198; Ord. No. 2014-37, § 2(54-198), 1-5-2015)

Sec. 54-199. Affirmative defenses.

(a) It is a defense to prosecution under the provisions of this article that the person possessed the illicit synthetic drug under the lawful supervision of an authorized law enforcement officer to enforce or ensure compliance with this article.

(b) It is a defense to prosecution that a violation of this article is expressly permitted by state or federal law.

(Code 2005, § 54-199; Ord. No. 2014-37, § 2(54-199), 1-5-2015)

Sec. 54-200. Seizure.

Any product or substance possessed, provided, sold, bartered, produced, manufactured, distributed, or offered, displayed, marketed or advertised for sale or purchased with the intent to provide, sell, barter, produce, manufacture, or distribute, or to offer, display, market or advertise for sale, in violation of any provision of this article, may be seized by any peace officer. Such product or substance may be destroyed as authorized by state law after its use for evidentiary purposes is no longer required.

(Code 2005, § 54-200; Ord. No. 2014-37, § 2(54-200), 1-5-2015)

Chapters 55--57

RESERVED

Chapter 58

PARKS AND RECREATION*

***State law reference**—Parks and recreation, V.T.C.A., Local Government Code § 331.001 et seq.

ARTICLE I. IN GENERAL

Sec. 58-1. Declaration of policy.

It is hereby declared to be the policy of the city to acquire, maintain and facilitate the use of properties to be utilized as public parks, squares and ways and other appropriate public facilities, giving due recognition to the social ideals of sports, recreation, the arts and the appreciation of beauty and ability.

(Code 1974, § 13-1; Code 1994, § 58-1; Code 2005, § 58-1)

Sec. 58-2. Possession or consumption of alcoholic beverages at public swimming pools prohibited.

It shall be unlawful for any person to possess or consume alcoholic beverages within the fenced boundaries of all swimming pools owned and/or operated by the city.

(Code 1974, § 13-56; Code 1994, § 58-2; Code 2005, § 58-2)

Secs. 58-3--58-22. Reserved.

ARTICLE II. PARKS*

***State law reference**—Park to be open for public use under rules prescribed by local governing authority, V.T.C.A., Local Government Code § 331.007.

DIVISION 1. GENERALLY

Sec. 58-23. 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:

Park means any property dedicated or used as a park or for public park purposes or that may be dedicated or used as a park or for public park purposes within the city, and which park includes land, the title to which is in the city.

(Code 1974, § 13-41; Code 1994, § 58-26; Code 2005, § 58-23)

Secs. 58-24--58-49. Reserved.

DIVISION 2. PERMITS

Sec. 58-50. Required for certain use of parks and recreational areas.

(a) A permit shall be obtained for the following activities:

(1) Use of any park or recreation facility of the city for functions or gatherings of a group of persons numbering more than 25;

(2) Use of the park after posted hours;

(3) Camping in areas designated by the director;

(4) Building of fires in areas not designated for such activity or not in receptacles designated for fires;

(5) Erection of signs; and

(6) Solicitation or peddling of any nature.

(b) The form of permit required by this section and reasonable regulations concerning its acquisition will be determined by the director of parks and recreation and approved by the city council. All fees are set by resolution and printed in Appendix D to this Code.

(Code 1974, §§ 13-42(a), 13-43, 13-47; Code 1994, § 58-36; Code 2005, § 58-50)

Sec. 58-51. Application.

The following information shall be provided on the application for a permit under this division:

(1) The purpose and nature of the function or event;

(2) The date, time and place where the function or event is scheduled; and

(3) The estimated number of persons to be present.

(Code 1974, § 13-42(a); Code 1994, § 58-37; Code 2005, § 58-51)

Sec. 58-52. Approval.

All permits must be approved and signed by the director of parks and recreation and reviewed by city officials as deemed necessary.

(Code 1974, § 13-42(b); Code 1994, § 58-38; Code 2005, § 58-52)

Secs. 58-53--58-77. Reserved.

DIVISION 3. USE REGULATIONS

Sec. 58-78. Regulations for specific park areas.

The director of parks and recreation shall keep and maintain a listing of specific rules and regulations that apply to specific parks.

(Code 1974, § 13-58; Code 1994, § 58-51; Code 2005, § 58-78)

Sec. 58-79. Compliance with division.

Compliance with the provisions of this division is a condition to the use of the parks of the city.

(Code 1974, § 13-59; Code 1994, § 58-52; Code 2005, § 58-79)

Sec. 58-80. Park hours.

It shall be unlawful for any person to remain in a park after posted hours of use without a permit. Permits for the use of parks after posted hours may be obtained from the director of parks and recreation.

(Code 1974, § 13-43; Code 1994, § 58-53; Code 2005, § 58-80)

Sec. 58-81. Injuring, defacing, removing, etc., property generally.

It shall be unlawful for any person to remove, destroy, mutilate, mark, disfigure, injure or deface any structure, monument, statue, fountain, wall, fence, railing, vehicle, bench or other property in any park. It shall likewise be unlawful for any person to destroy, damage, mark, cut, break or disfigure any tree, shrubbery, flower, or any other plant in or on any park.

(Code 1974, § 13-44; Code 1994, § 58-54; Code 2005, § 58-81)

State law reference—Criminal mischief, V.T.C.A., Penal Code § 28.03.

Sec. 58-82. Climbing trees; walking, standing or sitting on fountains, railings, etc.

It shall be unlawful for any person to climb any tree in a park or to walk, stand or sit upon any fountain, railing, flowerbed, monument, vase, or fence or upon any other property in a park which is not designated for or customarily used for such purposes.

(Code 1974, § 13-45; Code 1994, § 58-55; Code 2005, § 58-82)

Sec. 58-83. Littering.

It shall be unlawful for any person to litter any park or park waters. The term "littering," as used in this section, means the discarding of glass, paper, boxes, cans, dirt, rubbish, waste, garbage, and other forms of refuse in any place other than officially designated receptacles. Where receptacles are not so provided, all such rubbish or refuse shall be carried away from the park by the person responsible for its presence.

(Code 1974, § 13-46; Code 1994, § 58-56; Code 2005, § 58-83)

State law reference—Litter, V.T.C.A., Health and Safety Code ch. 365.

Sec. 58-84. Hunting, molesting, etc., animals, reptiles or birds.

It shall be unlawful for any person to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot, injure or throw any stone, object or missile of any kind at any animal, reptile or bird in a park.

(Code 1974, § 13-47; Code 1994, § 58-57; Code 2005, § 58-84)

Sec. 58-85. Possession or discharge of weapons prohibited.

It shall be unlawful for any person, other than a person licensed to carry a concealed handgun under V.T.C.A., Government Code ch. 411, subch. H, to carry or possess any firearm of any description, air rifle, spring gun, bow and arrow, sling, or any other form of weapon potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device within a park. Discharging any weapons within park areas or into park areas from beyond park boundaries is unlawful and strictly prohibited.

(Code 1974, § 13-47; Code 1994, § 58-58; Code 2005, § 58-85; Ord. No. 2013-21, § 2, 7-1-2013)

Sec. 58-86. Boats.

It shall be unlawful to place or operate any boat, raft or other watercraft, whether motor-powered or nonmotor-powered, upon any waters in any park, unless such waters are specifically designated for the use of such craft.

(Code 1974, § 13-48; Code 1994, § 58-59; Code 2005, § 58-86)

Sec. 58-87. Swimming, bathing or wading.

No person shall swim, bathe or wade in any body of water located on park property, unless specifically designated otherwise by signs or regulations applicable to the area.

(Code 1974, § 13-49; Code 1994, § 58-60; Code 2005, § 58-87)

Sec. 58-88. Picnicking.

Picnicking is allowed on park property except where specifically designated as not permitted by signs or regulations applicable to the area.

(Code 1974, § 13-50; Code 1994, § 58-61; Code 2005, § 58-88)

Sec. 58-89. Camping.

A permit from the director of parks and recreation for camping on park property is required.

(Code 1974, § 13-51; Code 1994, § 58-62; Code 2005, § 58-89)

Sec. 58-90. Fires.

(a) It shall be unlawful for any person to build or attempt to build a fire in a park in anything other than a specifically designated receptacle without a permit. Permits for the building of fires in areas not permitted or designated may be obtained from the director of parks and recreation pursuant to section 58-51.

(b) It is unlawful for any person to drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars within any park.

(Code 1974, § 13-52; Code 1994, § 58-63; Code 2005, § 58-90)

Sec. 58-91. Solicitation.

It shall be unlawful for any person to be or act as or ply the vocation of a solicitor, agent, peddler, or any person selling goods, wares and merchandise in any park without a permit. Permits may be obtained from the director of parks and recreation pursuant to section 58-51.

(Code 1974, § 13-53; Code 1994, § 58-64; Code 2005, § 58-91)

Sec. 58-92. Operation of vehicles on park property.

It shall be unlawful for any person to operate or cause to be operated a motorized vehicle on park property except on roadways and other specifically designated areas. This section does not apply to vehicles used for emergency, police, and parks and recreation purposes.

(Code 1974, § 13-54; Code 1994, § 58-65; Code 2005, § 58-92)

Sec. 58-93. Horses and other large animals.

It shall be unlawful for any person to ride, lead or otherwise allow a horse, whether by action or inaction, upon any area of a park, except along and upon areas specifically designated therefor. Other large animals are prohibited in the area of a park unless a permit is obtained pursuant to section 58-51. Dogs and cats, if household pets are appropriately licensed and supervised, are permitted on park property, except in areas specifically designated otherwise. Service animals are permitted wherever their owner or trainer is permitted.

(Code 1974, § 13-55; Code 1994, § 58-66; Code 2005, § 58-93)

Sec. 58-94. Possession or consumption of alcoholic beverages prohibited at certain athletic events.

It shall be unlawful for any person to possess or consume alcoholic beverages in a park while attending any athletic event or practice session specifically organized for the participation of minors.

(Code 1974, § 13-56; Code 1994, § 58-67; Code 2005, § 58-94)

Sec. 58-95. Glass bottles, containers prohibited.

(a) It shall be unlawful for any person to carry into any public park of the city, or have in his possession while within any such park, any glass beverage bottle or container.

(b) Beverages of any kind in glass containers are prohibited on park property.

(Code 1974, § 13-57; Code 1994, § 58-68; Code 2005, § 58-95)

Sec. 58-96. Exemptions from division.

The provisions of this division shall not be construed to apply to personnel while they are engaged in authorized maintenance or construction upon park property.

(Code 1974, § 13-60; Code 1994, § 58-69; Code 2005, § 58-96)

Chapters 59--61

RESERVED

Chapter 62

SEXUALLY ORIENTED BUSINESSES*

***State law reference—**Municipal authority to regulate sexually oriented businesses, V.T.C.A., Local Government Code ch. 243.

ARTICLE I. IN GENERAL

Sec. 62-1. Purpose.

(a) The purpose of this chapter is to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the city, and to establish a system of reasonable and uniform regulation of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny distributors and exhibitors of sexually oriented entertainment access to their intended market. The prohibition of the promotion of obscene material (not protected by the First Amendment) is enforceable through separate criminal sanctions under the state penal code.

(b) This chapter is promulgated pursuant to V.T.C.A., Local Government Code § 243.001 et seq.

(Code 1994, § 60-1; Code 2005, § 62-1; Ord. No. 98-19, § 2, 7-6-1998)

Secs. 62-2--62-20. Reserved.

ARTICLE II. REGULATIONS*

***State law reference—**Municipal authority to regulate sexually oriented businesses, V.T.C.A., Local Government Code § 243.001 et seq.

Sec. 62-21. 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:

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, 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 videostore* 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, or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment not subject to regulation in accordance with this article and which regularly features:

(1) Persons who appear in a state of nudity;

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to 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 and are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult tanning salon means a commercial establishment which provides facilities for tanning the human skin, such as tanning beds, suntan lights, or other similar facilities, and regularly features for the entertainment of its clientele:

(1) Persons who appear in a state of nudity; or

(2) Live performances or style shows of lingerie performed by persons who appear in a state of nudity or which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

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."

Applicant means a person who must apply for a license by this article.

Chief of police means the chief of police of the city or his designated agent.

Childcare facility means a building used as a day nursery, children's boarding home, child-placing agency or other place for the care or custody of children under 15 years of age licensed by the state pursuant to V.T.C.A., Human Resources Code § 42.041 et seq.

Church or place of religious worship means a building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or for propagating a particular form of belief.

Dwelling means a house, duplex, apartment, townhouse, condominium, mobile home or any other building used for residential purposes.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie, or to privately perform a striptease for another person for a fee, tip, or other consideration.

Escort agency means a business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business;

(4) The relocation of any sexually oriented business; or

(5) A location and place of business.

Hospital means a building used to provide health services for human inpatient medical care for the sick or injured, licensed pursuant to the Texas Hospital Licensing Law (V.T.C.A., Health and Safety Code § 241.001 et seq.) or operated by an agency of the federal government, or a convalescent facility licensed pursuant to V.T.C.A., Health and Safety Code § 242.001 et seq.

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 on a person licensed under this article.

Nude modeling 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 genitalia, pubic region or female breasts; or

(2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitalia, pubic region or areola of the female breast.

This includes material that is painted or applied to the body, such as paint, liquid latex or employment of any device or covering intended to give the appearance of or simulate the parts of the body listed in subsection (1) or (2) of this definition. This definition shall not include a mother in the act of nursing her child.

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.

Park means a tract of land maintained by the federal, state or local government or by a private homeowners' association for the recreation and enjoyment by the general public or members of the homeowners' association.

Public building means a building used by federal, state or local government and open to the general public.

School means a building where persons regularly assemble for the purpose of instruction or education, together with the playgrounds, dormitories, stadiums and other structures or grounds used in conjunction therewith.

Seminude or *seminudity* means a state of dress in which clothing covers no more than the genitals, pubic region, and areola 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 physical contact in the form of

wrestling or tumbling between persons of the opposite sex or other activities between male and female persons and/or persons of the same sex, when one or more of the persons is in a state of nudity or seminudity.

Sexually oriented business means an adult arcade, adult bookstore or adult videostore, adult cabaret, adult motel, adult motion picture theater, adult tanning salon, adult theater, escort agency, nude modeling studio, sexual encounter center, or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Specified anatomical areas means human genitals in a state of sexual arousal.

Specified sexual activities means and includes any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or 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 subsection (1) through (3) of this definition.

Transfer of ownership or control of a sexually oriented business includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the person possessing the ownership or control.

(Code 1994, § 60-26; Code 2005, § 62-21; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-22. Classification.

(a) Sexually oriented businesses include, but are not limited to, the following:

(1) Adult arcades;

(2) Adult bookstores or adult videostores;

(3) Adult cabarets;

(4) Adult motels;

(5) Adult motion picture theaters;

(6) Adult tanning salons;

(7) Adult theaters;

(8) Escort agencies;

(9) Nude modeling studios; and

(10) Sexual encounter centers.

(b) The determination of what constitutes a sexually oriented business shall be made by the chief of police and shall be appealable to city council.

(Code 1994, § 60-27; Code 2005, § 62-22; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-23. License required; duties of applicant; location of business.

(a) The following are required to be licensed:

(1) All owners, clerks, and employees of a sexually oriented business are required to be licensed to operate or work in said business. The term "employees" includes persons who work in a sexually oriented business for gratuities or other compensation and who may or may not earn wages or a salary;

(2) All corporations or directors of corporations of any sexually oriented business and their employees;

(3) All partners in any sexually oriented business and their employees; and

(4) All executive officers, corporations, partners, and lienholders and their employees who are associated with any sexually oriented business requiring a license under this article.

(b) No person shall work for any sexually oriented business without having, at all times while at work, a valid current state driver's license or a state-issued identification card which depicts a picture of the person and indicates the person's date of birth.

(c) All potential employees and/or clerks of sexually oriented businesses shall comply with this article, and shall not be in violation of this article before being issued an identification card to work at the business. Application forms shall be provided by the chief of police and the determination of compliance shall be made by the chief of police within 60 days from time of application.

(d) An application for a sexually oriented business license shall be made on a form provided by the chief of police. The application shall 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 shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. All location requirements shall be approved by the chief of police within 60 days from the time the application is filed.

(e) The applicant for a sexually oriented business license shall be qualified according to the provisions of this article.

(f) If a person who wishes to operate a sexually oriented business is an individual, such person shall 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 an interest in the business shall sign the application for a license as applicant and shall be considered a licensee if a license is granted.

(g) The fact that a person possesses any other valid license required by law does not exempt that person from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses another business license shall comply with the requirements and provisions of this article, as well as the requirements and provisions of the laws concerning the other license.

(h) Each applicant shall attach two copies of a recent photo to the application form.

(i) The application shall be accompanied by the following:

(1) Payment of the application fee in full;

(2) If the establishment is a state corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(3) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(4) If the establishment is a limited partnership formed under the laws of the state, a certified copy of the certificate of limited partnership, together with all amendments thereto; and

(5) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto.

(j) Each applicant for a sexually oriented business license shall, upon the filing of the application and payment of the filing fee, place signs (at least 24 inches by 36 inches in size) which provide notification and information specifically stating "SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION PENDING" and the date on which the application was filed. All lettering on the signs must be at least 1 1/2 inches by two inches in size for each letter on the sign. The signs must be of sufficient quantities to be placed upon the property so as to identify it as being subject to a proposed sexually oriented business license. It shall be the duty of each applicant as to each particular application to erect said signs along all the property's public road or highway frontage so as to be clearly visible from the public road or highway. If a property does not have a public road or highway frontage, then signs shall be placed upon the property in a manner to maximize the view of said sign when approached from the customary means of approaching the property. One sign shall be erected for each 300-foot increment of each public road or highway frontage on said existing property, or any part thereof. Said signs shall be erected not less than seven days after the filing of the application for the sexually oriented business license and remain erected until the application has been approved by the chief of police.

(k) Every applicant for a sexually oriented business license shall give notice of the application by publication at the applicant's expense in two consecutive issues of a newspaper of general circulation in the city. The notice shall be printed in ten-point boldface type and shall include the following:

(1) The fact that a sexually oriented business license has been applied for;

(2) The exact location of the place of business for which the permit is sought;

(3) The names of each owner of the business and, if the business is operated under an assumed name, the trade name, together with the names of all owners; and

(4) If the applicant is a corporation, the names and titles of all officers.

Such notice shall be printed not less than 14 days after the application is filed with the chief of police.

(l) An applicant for a renewal permit on an existing business at the time of the passage of the ordinance from which this article is derived is not required to publish notice or meet the posting requirements of subsections (j) and (k) of this section.

(m) The applicant for a sexually oriented business permit shall certify that:

(1) The proposed sexually oriented business will be located a minimum of 1,500 feet from the following:

a. A childcare facility;

b. A church or place of religious worship;

c. A dwelling;

d. A hospital;

e. A public building;

f. A park;

g. A school;

h. Safety routes for children; and

(2) The proposed sexually oriented business will be located a minimum of 1,500 feet from any other sexually oriented business.

For the purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of the proposed sexually oriented business to the nearest portion of the property line of the facility described in subsections (m)(1) and (2) of this section.

(Code 1994, § 60-28; Code 2005, § 62-23; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-24. Issuance of license.

(a) The chief of police, upon authorization by the city council, shall approve the issuance of a license to an applicant within 60 days after receipt of an application unless the council 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 the 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. The city finance director shall make this determination and report the director's findings to the chief of police within 60 days from the time the application is filed;

(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. The chief of police shall make this determination within 60 days from the time the application is filed;

(5) The premises to be used for the sexually oriented business have not been approved by the chief of police as being in compliance with the location requirements or any other requirements of this article. Reports of compliance or noncompliance with this article shall be completed by the chief of police within 60 days from the time the application is filed;

(6) The license fee required by this article has not been paid;

(7) An applicant has failed to comply with the requirements of section 62-23(i), (j), or (k) unless exempt under section 62-23(l);

(8) 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;

(9) An applicant or the proposed establishment is in violation of, or is not in compliance with, section 62-26, 62-27 or 62-32 through 62-41;

(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 a 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;

5. 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 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.

(b) 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 (a)(10) of this section may qualify for a sexually oriented business license only when the time period required by subsection (a)(10)b of this section 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.

(e) It shall be the duty of the chief of police to report to the applicant the findings under subsection (a) of this section within 60 days from the time the application is filed.

(f) No license shall be issued if the applicant is in violation of any health or safety statute of the state or any health or safety ordinance of the city.

(g) Any sexually oriented business which is in operation on the effective date of the ordinance from which this article is derived shall have 60 days within which to file an application with the chief of police. During the 60-day period described in subsection (a) of this section, said applicant who was in business on the effective date of the ordinance from which this article is derived shall not otherwise be regulated by this article.

(h) If the chief of police fails to act upon an application within the 60-day period specified in this article, the applicant shall be entitled to the issuance of a temporary license upon written demand thereto to the chief of police by the applicant. Such a temporary license shall be valid only until the third day after the chief of police issues the requested license or denies issuance of the same. Denial of a license shall be appealable as set out in section 62-31.

(Code 1994, § 60-29; Code 2005, § 62-24; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-25. Fees.

(a) The annual fee for a sexually oriented business license is set by resolution and printed in Appendix D to this Code.

(b) Each employee of a sexually oriented business shall pay an annual fee with each application as set by resolution and printed in Appendix D to this Code.

(c) No portion of any fee collected under this article shall be returned after a permit application has been filed.

(Code 1994, § 60-30; Code 2005, § 62-25; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-26. Violations.

(a) It shall be a violation of this article for any person to own or operate a sexually oriented business at a location inside the corporate limits of the city unless the sexually oriented business possesses and has posted a valid license issued by the chief of police in accordance with the terms of this article.

(b) It shall be a violation of this article for any person to be employed at or work at a sexually oriented business at a location inside the corporate limits of the city unless the person shall possess while on the premises of a sexually oriented business a valid license issued by the chief of police in accordance with the terms of this article. This includes individuals who work for gratuities or other compensation but who may or may not earn wages or a salary.

(c) It shall be a violation of this article for any person to employ, in a sexually oriented business at a location inside the corporate limits of the city, a person under the age of 18 years. This includes individuals who work for gratuities or other compensation but who may or may not earn wages or a salary.

(d) It shall be a violation of this article for a person under the age of 18 years to appear in a state of nudity in or on the premises of a sexually oriented business. 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.

(e) It shall be a violation of this article for a person to knowingly allow a person under the age of 18 years to appear in a state of nudity in or on the premises of a sexually oriented business. 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.

(f) It shall be a violation of this article for a person to appear in a state of nudity in an area of a sexually oriented business which can be viewed from a public right-of-way.

(g) It shall be a violation of this article for an employee of a sexually oriented business who appears in a state of nudity or seminudity to fondle or caress any patron or clientele of the sexually

oriented business, and it shall be unlawful for any patron or clientele of any sexually oriented business to fondle or caress any employee of a sexually oriented business who appears in a state of nudity or seminudity.

(h) It shall be a violation of this article for an employee or a customer of a sexually oriented business within the city to appear in a state of total nudity.

(Code 1994, § 60-31; Code 2005, § 62-26; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-27. Inspection.

(a) An applicant or licensee shall permit representatives of the city police 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 his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the city police department at any time it is occupied or open for business.

(c) The provisions of this section shall not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitat.

(Code 1994, § 60-32; Code 2005, § 62-27; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-28. 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 62-23.

(Code 1994, § 60-33; Code 2005, § 62-28; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-29. Suspension.

The chief of police shall suspend a license for a period not to exceed 30 days if the chief of police determines that a licensee has:

(1) Violated or is not in compliance with any portion 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; or

(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 1994, § 60-34; Code 2005, § 62-29; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-30. Revocation.

(a) The chief of police shall revoke a license if a cause of suspension in section 62-29 occurs and the license has been suspended within the preceding 12 months.

(b) The chief of police shall revoke a license if the chief of police determines that:

(1) A licensee gave false or misleading information in the material submitted to the chief of police 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 62-23(a)(10)a for which the time period required in section 62-23(a)(10)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 62-23(a)(10)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;

(8) A licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the sexually oriented business; or

(9) A licensee has violated a health and/or safety statute or ordinance as listed in this Code.

(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 shall not apply to adult motels as a 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 chief of police 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 chief of police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. 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 62-23(a)(10)b has elapsed.

(Code 1994, § 60-35; Code 2005, § 62-30; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-31. Appeal.

If the city council denies the issuance of a license, or the chief of police suspends or revokes a license, the chief of police shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action, a statement of facts with supporting documentation which formed the basis for the decision, and notice of the right to an appeal. The aggrieved party may appeal a decision of the chief of police to the city council. An appeal to the city council must be filed with the city secretary within 15 days of receipt of notice of the decision of the chief of police. Filing an appeal to city council stays the chief of police in suspending or revoking a license until the city council makes a final decision. The city council shall, within 15 days after receiving a notice of appeal, grant a hearing of the appeal and shall, within a period of five days, sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police within the time provided herein, the decision of the chief of police is final. The aggrieved party may appeal the decision of city council to a state district court of appropriate jurisdiction. An appeal to the state district court shall be filed within 30 days after the receipt of notice of the decision of the city council. All decisions of the city council not appealed become final and unappealable within 30 days. The applicant or licensee shall bear the burden of proof before the city council and in district court.

(Code 1994, § 60-36; Code 2005, § 62-31; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-32. 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 1994, § 60-37; Code 2005, § 62-32; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-33. Additional regulations--Adult cabarets.

The following additional regulations apply to adult cabarets:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-33, Friendswood City Code)"

(Code 1994, § 60-38; Code 2005, § 62-33; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-34. Same--Adult motels.

The following additional regulations apply to adult motels:

(1) 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.

(2) 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.

(3) For purposes of subsection (2) of this section, the terms "rent" and "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(Code 1994, § 60-39; Code 2005, § 62-34; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-35. Same--Adult tanning salons.

The following additional regulations apply to adult tanning salons:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-35, Friendswood City Code)"

(Code 1994, § 60-40; Code 2005, § 62-35; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-36. Same--Adult theaters.

The following additional regulations apply to adult theaters:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-36, Friendswood City Code)"

(Code 1994, § 60-41; Code 2005, § 62-36; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-37. Same--Escort agencies.

The following additional regulations apply to escort agencies: 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 of age.

(Code 1994, § 60-42; Code 2005, § 62-37; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-38. Same--Nude modeling studios.

The following additional regulations apply to nude modeling studios:

(1) A nude modeling studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(2) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(3) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(4) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(5) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(6) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-38, Friendswood City Code)"

(Code 1994, § 60-43; Code 2005, § 62-38; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-39. Same--Sexual encounter centers.

The following additional regulations apply to sexual encounter centers:

(1) Any dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur on a platform which is raised at least two feet from the level of the floor.

(2) No dance, performance, exhibition or show by an employee in a state of nudity or seminudity shall occur closer than ten feet to any patron or clientele.

(3) No patron or clientele shall directly pay or give any gratuity to any person, employee or otherwise, who shall dance or participate in any show, exhibition or performance while in a state of nudity or seminudity.

(4) No person, employee or otherwise, shall solicit or accept any gratuity from any patron or clientele in return for dancing or participating in any show, exhibition or performance while in a state of nudity or seminudity.

(5) A minimum of two signs at least 18 inches square bearing red letters a minimum of two inches high on a white background shall be prominently displayed in locations readily observed by patrons or clientele providing the following notice:

"GRATUITIES FOR PERFORMERS ARE PROHIBITED BY LAW.

(Sec. 62-39, Friendswood City Code)"

(Code 1994, § 60-44; Code 2005, § 62-39; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-40. Regulations pertaining to 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 persons 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 chief of police may waive the foregoing diagram for renewal applications, if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since 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 chief of police or a designee of the chief of police.

(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 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. Viewing booths must be separated at least 12 inches from the exterior walls of any other view booths by open space.

(6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises, to ensure that the 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) For safety purposes, 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 owners and operator and it shall also be the duty of any agents and employees present on 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 he knowingly fails to fulfill that duty.

(c) All locational requirements of this section shall be approved by the chief of police within 60 days from the time the application is filed if in compliance herewith.

(Code 1994, § 60-45; Code 2005, § 62-40; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-41. Display of sexually explicit material to minors.

(a) A person commits an offense if, in a sexually oriented 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 passion 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" shall mean 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 1994, § 60-46; Code 2005, § 62-41; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-42. Defenses.

(a) It shall be a defense to prosecution under section 62-23(a) or 62-38(a), (b) or (c) that a person appearing in a state of nudity or seminudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state, a 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 or seminude person is available for viewing;

b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and

c. Where no more than one nude or seminude model is on the premises at any one time.

(b) It is a defense to prosecution under section 62-26(a) 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 1994, § 60-47; Code 2005, § 62-42; Ord. No. 98-19, § 2, 7-6-1998)

Sec. 62-43. Enforcement.

(a) A person commits an offense if the person violates any provision or term of this article. An offense for violating this article is a Class A misdemeanor.

(b) The city may sue in district court for an injunction to prohibit the violation of any term or provision of this article.

(Code 1994, § 60-48; Code 2005, § 62-43; Ord. No. 98-19, § 2, 7-6-1998)

Chapters 63--65

RESERVED

Chapter 66

SOLID WASTE*

***State law reference**—Minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code ch. 341; local regulation of sanitation, V.T.C.A., Health and Safety Code ch. 342; Solid Waste Disposal Act, V.T.C.A., Health and Safety Code ch. 361; municipal solid waste, V.T.C.A., Health and Safety Code ch. 363; litter, V.T.C.A., Health and Safety Code ch. 365.

ARTICLE I. IN GENERAL

Secs. 66-1--66-18. Reserved.

ARTICLE II. COLLECTION AND DISPOSAL*

***State law reference**—Solid Waste Disposal Act, V.T.C.A., Health and Safety Code § 361.001 et seq.; local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.; municipal solid waste, V.T.C.A., Health and Safety Code § 363.001 et seq.; municipal solid waste, 30 Tex. Admin. Code § 330.1 et seq.; approved containers, 30 Tex. Admin. Code § 330.211.

DIVISION 1. GENERALLY

Sec. 66-19. 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:

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.

Trash or *rubbish* means 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).(Code 1974, § 8-1; Code 1994, § 62-26; Code 2005, § 66-19)

Sec. 66-20. Persons authorized to dispose of garbage and trash.

No person except the duly authorized agents and employees of the city shall empty garbage or trash containers, or convey, haul or transport garbage or trash on the streets, alleys and public thoroughfares of the city. Persons may obtain a permit from the city at no charge to transport their own personal garbage and trash outside the city limits and dispose of such garbage, trash and all other refuse in an orderly, safe and sanitary manner.

(Code 1974, § 8-5; Code 1994, § 62-27; Code 2005, § 66-20)

Sec. 66-21. Service charges.

(a) The fee for garbage and trash pickup service shall be billed to the person receiving such service, with the city billing for such service to residential properties, and the city's garbage contractor billing for such service to nonresidential properties. A fair and reasonable classification of the residences, buildings, and premises in the city for fixing rates for the collection and removal of garbage and trash and the minimum rate per month for such service shall be set by resolution and printed in Appendix D to this Code.

(b) The minimum charges established in subsection (a) of this section and printed in Appendix D to this Code for residential, commercial and business garbage and trash pickups are minimum rates and will be debited to each water meter account during the time such account is active.

(c) The fee for recycled garbage and trash collection and disposal services to residences in the city shall be set by resolution and printed in Appendix D to this Code. Such charge shall be added to the fee otherwise established in this section for regular residential garbage collection service.

(Code 1974, § 8-6; Code 1994, § 62-28; Code 2005, § 66-21; Ord. No. 90-34, § 1, 12-3-1990; Ord. No. 92-21, § 1, 11-16-1992; Ord. No. 93-15, § 1, 11-1-1993; Ord. No. 94-11, § 1, 9-12-1994)

Sec. 66-22. Failure to pay bill; discontinuance of water service.

The charges for garbage and trash pickup service, which shall be debited to each water meter account, shall render such water meter account delinquent if not paid with the water bill on a monthly basis. Failure to pay such charge shall be a violation of this article and the city may discontinue water service for such violation. Discontinuance of water service for failure to pay garbage charges shall not be construed as a criminal penalty and no notice and hearing shall be required for persons violating the provisions of this article.

(Code 1974, § 8-7; Code 1994, § 62-29; Code 2005, § 66-22)

Secs. 66-23--66-47. Reserved.

DIVISION 2. CONTAINERS

Sec. 66-48. Specifications.

Every owner, occupant, tenant or lessee using or occupying any building, house or structure within the city for a residence, church, school, lodge, industry, or for commercial, business or other purpose, shall provide and maintain garbage containers of sufficient number and size to hold the garbage and trash that will normally accumulate on the premises. Each container shall be not less than ten or more than 31 gallons, and shall be constructed of substantial materials with tight-fitting lid or cover and equipped with handles sufficiently strong for workmen to empty such containers.

(Code 1974, § 8-2; Code 1994, § 62-41; Code 2005, § 66-48)

Sec. 66-49. Placing for pickup; bundling trash.

The containers for trash and garbage shall be placed at the point designated by the agent of the city. If trash is of such a nature that it cannot be put in the containers, it shall be carefully placed in bundles under 50 pounds in weight so that it can be removed conveniently, and tree limbs and hedge cuttings shall not exceed three feet in length.

(Code 1974, § 8-3; Code 1994, § 62-42; Code 2005, § 66-49)

Sec. 66-50. Keeping closed.

The lids or covers of all containers shall at all times be kept secure and fastened so that flies and other insects may not have access to the contents of the containers, and such lids or covers shall only be removed while the containers are being filled or emptied.

(Code 1974, § 8-4; Code 1994, § 62-43; Code 2005, § 66-50)

Chapters 67--69

RESERVED

Chapter 70

STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES*

***State law reference**—General authority of home rule municipalities concerning highways, streets and alleys, V.T.C.A., Transportation Code § 311.001; general authority of home rule municipality regarding sidewalks, V.T.C.A., Transportation Code § 311.004; use of municipal streets and sidewalks for public convenience and amenities, V.T.C.A., Transportation Code § 316.001 et seq.; consent of governing body required for utility use of streets and ways, Vernon's Ann. Civ. St. art. 1175; public buildings and grounds, V.T.C.A., Local Government Code ch. 281 et seq.; parks and other recreational and cultural resources, V.T.C.A., Local Government Code ch. 306 et seq.

ARTICLE I. IN GENERAL

Secs. 70-1--70-18. Reserved.

ARTICLE II. STREETS GENERALLY

Sec. 70-19. Damaging streets.

It shall be unlawful for any person to damage, mar, mutilate or deface any street, alley or other public right-of-way, or any part thereof. Excavations in the public streets may be made as authorized under permit from the city pursuant to section 70-112 et seq.

(Code 1974, § 15-1; Code 1994, § 66-26; Code 2005, § 70-19)

State law reference—Criminal mischief, V.T.C.A., Penal Code § 28.03; obstructing streets, V.T.C.A., Penal Code § 42.03.

Sec. 70-20. Permit required to obstruct with building operations.

It shall be unlawful for any person to erect, repair, change, alter or remodel any building on the public square or any paved street in the city in such a manner as to obstruct any street or alley, without first obtaining a permit from the city manager and giving notice to the chief of police and without placing on such obstruction a red light from sundown to sunrise, such red light or lights to be so placed on such obstruction as to be observed by those traveling such obstructed streets and alleys from all directions. The permit fee shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-4; Code 1994, § 66-27; Code 2005, § 70-20)

Sec. 70-21. Soil on streets, duty of adjacent property owner to remove; abatement by city, costs; penalty.

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

Owner means any person, or any officer, agent or employee thereof, occupying or having control of real property.

Paved city street means any public street of the city which is paved or covered with asphalt or concrete cement.

Soils means dirt, sand and other similar earth matter, and also means rocks and other solid or semisolid mass material, whether produced by man or nature, but shall not include the matter composing the street surface or appurtenances thereto.

(b) *Soil deposits prohibited*. It shall be unlawful for any person to cause or permit the depositing of soils on paved city streets.

(c) *Duty of adjacent property owner to remove soil.* It shall be unlawful for an owner of property adjacent to a paved city street to fail to remove from such street soil which by rain or other occurrence has washed or removed itself from such adjacent property to the adjacent paved city street, provided, however, it shall be a defense to prosecution under this section that such soils were removed and cleared from such paved city street within 24 hours of the occurrence which caused the depositing of soils into the street if such occurrence was by act of God, or within six hours if such occurrence was by act of man.

(d) *Abatement by city.* When the existence of a nuisance as described in this section shall come to the knowledge of the city manager, it shall be his duty to cause a written notice thereof to be served on the owner responsible for creating or allowing such nuisance. Such notice shall identify the property, shall set forth the action required to abate the nuisance, and shall provide that if the nuisance is not abated within 72 hours of notice thereof, the city may at once cause such abatement to be done and pay therefor and charge the cost and expense incurred to the owner. If the owner shall fail to pay the city for such costs and expenses within ten days of demand therefor, then the city may perfect a lien upon the property of the owner in the same manner and upon the same cost basis as provided in section 26-127 for nuisance abatement on private property.

(e) *Notice.* Notice to the owner under this section may be served in person, by certified mail, return receipt requested, or by attaching such notice to the front door of any building situated upon the property subject to a lien under this section, or, if there is no building, then by attaching such notice upon a placard erected on such property.

(Code 1994, § 66-28; Code 2005, § 70-21; Ord. No. 91-25, §§ 2--6, 9-23-1991)

Sec. 70-22. Alteration of roadside drainage ditches.

(a) *General prohibition.* It shall be unlawful for any person to alter, cause to be altered or permit the alteration of any roadside drainage ditch within public street rights-of-way in the city unless such alteration is in accordance with the terms of this section.

(b) *Factors under which alterations are permitted.* Alterations of roadside drainage ditches located within public street rights-of-way in the city which reduce the carrying capacity or storage capacity of stormwaters therein are hereby prohibited unless:

(1) Such alterations will not increase flood elevations of neighboring or upstream properties;

(2) Such alterations will not adversely affect the drainage of stormwaters over and across other properties within the local drainage area or watershed; and

(3) Such alterations are not otherwise prohibited by any rule, regulation, ordinance, statute or law of any governmental unit or agency having jurisdiction thereover.

(c) *Permit for alterations required; application procedure; fees.* It shall be unlawful for any person to alter any roadside drainage ditch located within public street rights-of-way in the city unless a permit therefor has been obtained in accordance with this section. Applications for permits shall be filed with the city manager or the official designated by the city manager to receive such applications. Forms for such permit applications shall be available in the office of the city secretary. All permit applications shall be accompanied by plans and specifications for the proposed alterations. Fees for alteration permits shall be as set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-7; Code 1994, § 66-29; Code 2005, § 70-22)

Sec. 70-23. Street address numbers to be displayed; specifications.

(a) The owner, occupant or person in control of every building or structure in the city used or intended to be used for residential, business, commercial, educational, religious, governmental or

similar purposes shall cause to be placed on the premises upon which such building or structure is situated the street address number designated for such building or structure.

(b) The street address number shall be placed on the building or structure, the mailbox, the curb, or elsewhere on such premises and shall be of sufficient size so that it may be readily seen and identified from the street upon which such building or structure faces.

(Code 1974, § 15-5; Code 1994, § 66-30; Code 2005, § 70-23)

Sec. 70-24. Installation of mailboxes adjacent to state highways.

It shall be unlawful for any person to install any mailbox, whether new or replacement, along or adjacent to any state highway or farm-to-market road located within the corporate boundaries of the city unless such mailbox installation complies with the standards in the drawings which are on file in the city secretary's office and which are hereby made a part of this section by reference.

(Code 1974, § 15-6; Code 1994, § 66-31; Code 2005, § 70-24)

Sec. 70-25. Vacation of street, drainage, utility or other public easement.

(a) The city council will provide for the vacation, abandonment or relocation of an existing road/street right-of-way, or any drainage, utility or other public easement, upon satisfaction of the following conditions:

(1) A property owner whose property abuts a public easement or right-of-way, and is located within the corporate limits, makes application to the city requesting the vacation, in whole or in part, of the abutting public easement or right-of-way;

(2) A completed application form is submitted to the community development department, identifying the entire limits or extent of the right-of-way/easement and the limits of the section to be abandoned, if different;

(3) Such request and application shall be accompanied by an exhibit and a metes and bounds description of the vacated right-of-way which has been prepared by a registered professional land surveyor;

(4) Written confirmation from all owners of real property abutting the easement, utility companies, drainage districts and/or other interested agencies stating they have been notified of the requested right-of-way vacation and a letter of "no objection" from each of the concerned entities.

(b) Upon receipt of all information, the city shall schedule a joint public hearing with the city council and the planning and zoning commission. The city shall provide written notice of such joint public hearing to each owner of real property, as indicated by the most recently approved city tax roll, whose property abuts or lies within 200 feet of the existing right-of-way/easement (in its entirety). At the public hearing, any person desiring to be heard regarding such a matter will be given an opportunity to do so. The following items are required by the city to hold a joint public hearing:

(1) Application;

(2) Metes and bounds description;

(3) Title report;

(4) Fees; and

(5) Utility letters.

Notice of said hearing shall be given by publication one time in a paper of general circulation in the city stating the time and place of hearing which shall not be less than 15 days nor more than 30 days from the date of the public publication.

(c) After compliance with the above items, the joint public hearing shall be held. Within 30 days of the hearing, the planning and zoning commission shall make a recommendation to city council. The city council shall decide whether to grant or deny the request. If a vacation request is granted, an ordinance and quitclaim deed will be prepared (ordinances must be heard in accordance with the city Charter).

(d) When required by state law, an appraisal shall be made for an application for vacation of a public right-of-way. The applicant shall pay for all appraisal fees incurred. The appraisal shall be requested to determine the market value of the city's interest in the public right-of-way. No appraisal shall be required for an application for vacation of a public easement. The market value of the city's interest in a public easement is deemed to be zero.

(e) An application fee shall be required of each applicant seeking a vacation of any right-of-way. This fee shall be set by resolution and printed in Appendix D to this Code.

(Code 1994, § 66-32; Code 2005, § 70-25; Res. No. R98-2, §§ 1--5, 1-19-1998)

Secs. 70-26--70-54. Reserved.

ARTICLE III. CONSTRUCTION

Sec. 70-55. 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:

Alley means any street as defined in this section of 20 feet or less and having no legal or official name other than "alley."

Driveway means entrances to and exits from private premises where it is possible to park completely off the street and which are not open for vehicular traffic except by permission of the owner of such private premises.

Highway, street or *road* means a general term denoting a public way for the purpose of vehicular travel and including the entire area within the right-of-way.

Loading dock means a raised platform for loading or unloading of materials.

Local street or road means a street or road primarily for access to residence, business or other abutting property.

Major thoroughfare means a public street which is designated on the most recent major thoroughfare plan approved by the planning and zoning commission, and those streets that carry high traffic volumes and on which traffic control measures are used to expedite the safe movement of through traffic.

Pedestrian means any person afoot.

Sidewalk means the minimum paved walkway, built in conformance with the city design criteria manual and standard construction details, located within the public right-of-way, or easement dedicated for public use, which provides continuous pedestrian access to adjacent land.

(Code 1974, § 15-36; Code 1994, § 66-51; Code 2005, § 70-54; Ord. No. 2008-19, § 1, 7-7-2008)

Sec. 70-56. Driveway approval standards.

(a) Upon receipt of an application for a driveway permit, the city manager shall make or cause to be made a determination as to whether the driveway applied for is necessary to provide reasonable access to the private property consistent with the safety and convenience of the public, taking into account the following matters:

(1) The nature and volume of traffic on the street on which the private property abuts.

(2) The dimensions and type of construction of the street on which the private property abuts.

(3) The effect that the passage of vehicles to and from the private property will have upon the safety of the public and on movement of traffic on the street to which the driveway connects.

(4) The use to be made of the private property.

(5) The dimension of the private property, and the type and location of improvements thereon or to be placed thereon.

(6) The extent of the access which the private property has or will have to other public streets, if any.

(b) The permit fee under this section shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-38; Code 1994, § 66-53; Code 2005, § 70-56)

Sec. 70-57. Restrictions.

After making, or causing to be made, a determination for approval of the driveway as set out in section 70-56, the city manager shall grant or refuse the application in accordance with the following rules:

(1) He shall refuse to issue a permit for a single driveway opening unless it shall be found to be necessary for reasonable access.

(2) If the application is for more than one driveway opening into the same premises, he shall allow no more such openings than the minimum number found to be necessary to provide reasonable access.

(3) He shall refuse to issue a permit for any driveway opening where it has been found that the proposed use of the driveway would create an extraordinary traffic hazard or would excessively interfere with the normal use of the right-of-way.

(4) Every permit issued shall specify the maximum width of the driveway opening for which the permit is granted and such width shall be no greater than the minimum necessary to provide reasonable access.

(5) If a permit is granted for more than one driveway opening into the same premises, it shall specify that each such opening shall be separated from the others by a distance of no less than 20 feet, and that an upright curb must be constructed along the edge of the area of separation next to the improved portion of the street.

(Code 1974, § 15-39; Code 1994, § 66-54; Code 2005, § 70-57)

Sec. 70-58. State review of plans and specifications.

The state highway department will review plans for the proposed construction of driveways, sidewalks, parking lots and alleys into or abutting all state highways. Evidence of this review and approval must be submitted with plans prior to obtaining the city's approval. The state's concurrence to proposed construction is insufficient alone since it is conditioned upon the city's granting final approval.

(Code 1974, § 15-40; Code 1994, § 66-55; Code 2005, § 70-58)

Sec. 70-59. Standards for design and construction.

The following will be built in conformance with the city design criteria manual and standard construction details:

(1) Driveway geometric design standards.

(2) Off-street parking lots.

(3) Change of type "B" inlets for construction of driveways.

(4) Type "D" inlets.

(5) Standard curb and gutter section.

(6) Construction notes for sidewalks, driveways, curbs and gutters.

(7) Standard requirements for paving public alleys.

(8) Island construction for continuous culvert pipe.

(Code 1974, § 15-41; Code 1994, § 66-56; Code 2005, § 70-59; Ord. No. 2008-19, § 1, 7-7-2008)

Sec. 70-60. Plot plan required.

A plot plan shall be prepared to scale and presented to the city manager showing the following information:

(1) All proposed driveways and sidewalks shall be shown in detail and shall conform to the standards for design and construction in conformance with the city design criteria manual and standard construction details.

(2) All existing driveways and sidewalks shall be shown as they exist on the ground, showing the driveway width and design.

(3) Existing conditions between the right-of-way line and the traveled roadway, including, but not limited to, curbs, ditches, storm sewer inlets, manholes, utility poles, fire hydrants, traffic control and directional signs, and trees.

(4) When private property being developed fronts a "T" intersection street, the complete intersection must be shown on the plot plan.

(5) When private property is being improved with add-on construction, remodeling, accessories, repairs, erection of building parking lots or any other improvements, and all existing onsite conditions shall be shown on the plot plan.

(6) Cross sections, as applicable, of proposed driveways and sidewalks, either or both, shall be shown on the plot plan. When such cross sections are shown elsewhere in a set of drawings, reference to the sheet number shall be noted on the plot plan.

(Code 1974, § 15-42; Code 1994, § 66-57; Code 2005, § 70-60; Ord. No. 2008-19, § 1, 7-7-2008)

Sec. 70-61. Driveway drainage requirements.

If an existing curb-type storm sewer inlet falls within the proposed driveway area, a new curb-type storm sewer inlet will be required to be constructed on the nearest remaining straight curbline. The existing inlet will be converted to a flat grate-type inlet and connected to the new inlet by a concrete pipe lead of a diameter not less than the existing lead. Failure to show the existing inlets on the plot plan in no way releases the developer from these requirements, even though the permit may have been issued. Refer to drawing number 74-3 (change of type "B" inlet). Drainage of surface water through the curb will be limited to the use of a pipe of a minimum four-inch inside diameter and a maximum distance of one foot, center to center.

(Code 1974, § 15-47; Code 1994, § 66-58; Code 2005, § 70-61)

Sec. 70-62. Driveway culvert pipe.

(a) *Width*. No culvert pipe of less than the inside diameter of the nearest upstream culvert pipe shall be installed. In no case will a culvert pipe of less than 15 inches inside diameter be

permitted. Proposed driveways over culvert pipes shall not be constructed of concrete. Proposed culvert pipe sizes may be verified by contacting the city engineer.

(b) *Length.*

(1) If a request is made for runs of culvert pipe in excess of the normal maximum 35-foot-wide driveway culvert, the city engineer will conduct a field investigation of the feasibility and practicability of the culvert pipe installation. If the request must be denied, the petitioner will be advised why his request cannot be granted.

(2) When the request for a long run of culvert pipe is approved in excess of the 35-foot maximum driveway width required, concrete curbed islands shall be constructed in accordance with drawing number 74-9 (island construction for continuous culvert pipe).

(3) Whenever a building permit is sought on abutting property having existing culvert pipe in excess of 35 feet without concrete curbed islands required by this section, such building permit shall not be issued without the construction of concrete curbed islands in compliance with this section.

(4) The plot plan to accompany a request for extra length culvert pipe shall include:

a. Location of proposed culvert pipe by street address.

b. Size and length of culvert pipe approval requested.

c. Construction and spacing of type "D" inlets.

d. Conformity with driveway geometric design standards regarding spacing of driveways for the construction of the concrete curbed island.

(Code 1974, § 15-48; Code 1994, § 66-59; Code 2005, § 70-62)

Sec. 70-63. Driveways prohibited in certain areas.

Driveways are prohibited within the following areas:

(1) Within the areas set forth by the state highway department as "access denied."

(2) Within the areas designated "access denied" on recorded subdivision plats or any other plat required to be approved by the city planning and zoning commission.

(3) At the end of any dead-end street not terminating in a cul-de-sac or permanent turnaround and intended to be extended in the future.

(4) Within the limits of any intersection, with the exception that special consideration will be given to major thoroughfares with existing esplanades and to streets primarily used for residential purposes.

(5) Within any area with less than 20 feet of unobstructed depth from the right-of-way line to any obstruction.

(6) Within an area abutting major thoroughfares where the general design of the parking does not provide the necessary depth to allow a vehicle when exiting to enter the thoroughfare in a head-out position.

(7) Any existing driveway that may fall within an area where the 20-foot minimum unobstructed depth is shortened by the construction of a structure of any type. Such driveway shall be removed and the area restored to its original state.

(8) Within any area where the city manager finds that it would not provide reasonable access to private property consistent with the safety and convenience of the traveling public.

(Code 1974, § 15-50; Code 1994, § 66-60; Code 2005, § 70-63)

Sec. 70-64. Sidewalks required.

Sidewalks are required along all streets.

(1) Exception: Sidewalks shall not be required in single-family residential (SFR) and single-family residential estate (SFR-E) districts where open ditch streets are approved.

(2) Sidewalks may not be required when, in the judgment of the planning and zoning commission, the safety of the pedestrians does not require such sidewalks.

(3) If a plat is required, the developer, prior to the city's final acceptance of the infrastructure, must install sidewalks along reserves and rights-of-way prior to the city's final acceptance of the infrastructure.

(4) If no platting or infrastructure construction is required, sidewalks must be installed prior to issuance of the final certificate of occupancy of the structure.

(5) If sidewalks are required by the city design criteria manual, subdivision ordinance, or zoning ordinance, and the installation at the required time is not feasible, the city may require, or the property owner may petition the planning and zoning commission to allow, the property owner to satisfy the sidewalk requirement by payment of a fee to the city's sidewalk installation fund in lieu of installing the approved sidewalk per Appendix B, subdivision ordinance of this Code, section V.i.3.

(6) When sidewalks are required, they shall be built in accordance with the city design criteria manual and standard construction details.

(Code 1974, § 15-43; Code 1994, § 66-61; Code 2005, § 70-64; Ord. No. 2008-19, § 1, 7-7-2008; Ord. No. 2011-28, § 2, 10-3-2011)

Sec. 70-65. Extensive street curb and gutter removal and replacement.

Where construction of driveways and sidewalks will require the removal and replacement of curb and gutter over a continuous run in excess of 25 percent of any one block, a plan shall be submitted to the city manager with the following information, which shall be in addition to the information required by section 70-60:

(1) A continuous profile plotted to scale of one inch equals two feet vertically and one inch equals 20 feet horizontally, containing all the existing and proposed profiles necessary for reviewing. The proposed gutter grade should meet the following minimum design criteria:

a. Minimum gutter grade, except at corner curb returns, shall be one-fourth of one percent (three-inch fall per 100 feet).

b. Minimum gutter grade around corner curb returns shall be one percent (example: 0.22-foot fall around 14-foot radius).

c. A vertical curve with elevations given every ten feet will be required where the algebraic difference of the proposed gutter grades exceeds one percent, excluding corner curb radius grades.

(2) Construction details for replacing curbs and gutters and base, any or all, when necessary to remove such curbs and gutters and base for realignment of curbs and gutters horizontally or vertically. The method of tie of proposed curbs and gutters and base, any or all, to existing pavement, with or without reinforcing steel, shall be given in detail. For asphalt surfaced streets, "feathering" of type "F" asphalt toward crown shall be made at a sufficient distance to ensure adequate cross-slope drainage. Minimum one-fourth-inch per foot will be required when raising proposed gutter above existing gutter line. The city engineer should be contacted for clarification of these requirements where necessary.

(Code 1974, § 15-45; Code 1994, § 66-62; Code 2005, § 70-65)

Sec. 70-66. Parking lots.

(a) It shall be unlawful for any person who operates, keeps or maintains, or causes to be operated, kept or maintained, a parking lot where automobiles or other vehicles are parked on private property adjacent to public streets or sidewalks, to permit any automobile or vehicle parked thereon to be parked in such a manner as to protrude over the property line of such parking lot or to obstruct in any manner any public street or sidewalk adjacent to such private property.

(b) When an area is being developed for parking, a plan shall be prepared and submitted to the city manager showing the boundaries, entrances and exits, geometric layout of stalls and aisles, operating plan, drainage, and surfacing or paving. The space being developed for parking shall be surfaced with asphalt or better and parking spaces or stalls shall be identified by striping with paint or other method approved by the city manager.

(c) When the parking lot is designed to create a one-way aisle operation, an exit shall be provided to enable the vehicle exiting to enter the street in a head-out position.

(d) A three-inch mountable concrete curb shall be constructed whenever the area between the property line and the curb is paved. The curb shall be placed adjacent to the property line except when used as a vehicle wheel stop; in which case, it shall be a six-inch concrete curb or similar permanent type wheel stop placed a minimum of 2 1/2 feet inside the property line.

(e) A three-inch mountable concrete curb shall be constructed whenever an area adjacent to the right-of-way is to be paved or used for parking. The curb shall be placed adjacent to the property line except when used as a vehicle wheel stop; in which case, it shall be a six-inch concrete curb or similar permanent type wheel stop placed a minimum of 2 1/2 feet inside the property line.

(f) Paved areas, parking lots, yards, courts and courtyards shall be drained into a storm sewer system where such systems are available; otherwise, they shall be drained to a place of disposal approved by the city manager. Stormwater drainage shall not discharge or flow over any public sidewalk or adjoining property.

(Code 1974, § 15-49; Code 1994, § 66-63; Code 2005, § 70-66)

Sec. 70-67. Alley paving.

The requirements for paving a public alley are identical to public street paving, requiring plan-profile type of drawings prepared by a registered professional engineer and approved by the city engineer. Drawing number 74-8 (standard requirements for paving alleys) will govern the design and construction of alleys. A separate paving permit issued by the city and a separate paving bond will be required prior to any construction. The permit fee and bond amount shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-46; Code 1994, § 66-64; Code 2005, § 70-67)

Sec. 70-68. Off-street truck loading docks.

In no case shall a back-in type loading dock be constructed on major thoroughfares where the vehicle is using the major thoroughfare for maneuvering purposes. Where off-street back-in loading docks are constructed, the loading area shall be sufficiently designed and constructed to store the commercial motor vehicle, truck-tractor, tractor, trailer or semitrailer, or combination of such vehicles, within private property and no part of such commercial vehicles shall protrude over the property line or obstruct in any manner any public street or sidewalk area. The depth of the loading dock from the right-of-way and property line extending onto private property shall be

determined by the type of commercial vehicle using the facility. All other type loading areas other than the loading dock shall require a 20-foot minimum depth from the property line.

(Code 1974, § 15-44; Code 1994, § 66-65; Code 2005, § 70-68)

Sec. 70-69. Permit required by bonded contractor.

It shall be unlawful to construct, reconstruct, repair or regrade any driveway, sidewalk, culvert pipe, curb or gutter within the city without obtaining a permit from the city manager, which permit shall be kept conspicuously displayed within 20 feet of the construction area during the prosecution thereof. The permit fee shall be set by resolution and printed in Appendix D to this Code. The application for a permit shall be made to the city manager, stating the nature and extent of the proposed improvements, location by lot, block and street number, together with the plans and specifications provided for in section 70-60. The applicant shall furnish evidence that he has secured a bond in accordance with the provisions of section 70-71.

(Code 1974, § 15-51; Code 1994, § 66-66; Code 2005, § 70-69)

Sec. 70-70. Homeowner's permit.

A homeowner's permit will be issued to install culvert pipe or construct a driveway where no curb cut is required, in accordance with city specifications, without the bond required in section 70-71. The permit fee shall be set by resolution and printed in Appendix D to this Code.

(Code 1974, § 15-52; Code 1994, § 66-67; Code 2005, § 70-70)

Sec. 70-71. Contractor's bond.

No person, except a person laying permanent street paving under contract with the city, shall be entitled to construct, reconstruct, repair or regrade any driveway, culvert pipe, sidewalk, curb or gutter within the city unless he shall first execute to the city a yearly bond in the sum as set by resolution and printed in Appendix D to this Code, payable to the city, with two or more sureties, or with a corporate surety authorized to do business in the state, conditioned that the principal therein will construct, reconstruct, repair or regrade all driveways, culvert pipes, sidewalks, curbs or gutters in accordance with this article and on the line and grade as established by the city engineer, and further conditioned that such person will save the city harmless from all loss or damage to any person, of whatever character, arising by reason of negligence on the part of the contractor in performing such work, or in leaving the same ungraded, or from any other cause. The bond shall further recite that all work done by the contractor during the year for which such bond shall hold good shall be performed to the satisfaction of the building official.

(Code 1974, § 15-53; Code 1994, § 66-68; Code 2005, § 70-71)

Sec. 70-72. Effect of acceptance of permit.

Any person to whom a permit is issued pursuant to any of the provisions of this article will, by his acceptance of such permit (which acceptance shall be conclusively presumed, if after the permit is issued he does any of the work contemplated or provided for in the application), undertake or promise that the work covered by the permit and application will be done in full and exact accordance with the provisions of the application and of the plans and specifications therefor, and that no other work than that covered by the permit will be undertaken pursuant thereto. He will further thereby agree that, during the course of the work, every instruction and order of the city engineer or building official for stopping any work which is being done in a manner contrary to the plans and specifications or the application, correcting and replacing any work not in compliance therewith or completing any work necessary to accomplish compliance therewith, will be promptly and immediately observed. Without limiting the obligation of the applicant to faithfully adhere to the plans, drawings and all of the specifications he will, by the acceptance of a permit, particularly undertake that no materials will be used in the work except those which, under the appropriate

provisions of the city's minimum standards and specifications, have been tested and approved by an approved testing laboratory as therein provided; and that if any materials not so tested and approved are used, he will, upon such violation being discovered, replace such materials by work of proper tested and approved materials.

(Code 1974, § 15-54; Code 1994, § 66-69; Code 2005, § 70-72)

Sec. 70-73. Construction in city right-of-way.

It shall be unlawful for any person, on behalf of himself or on behalf of any other person, to perform or cause to be performed or to permit the construction, reconstruction, repair or regrading of any driveway, sidewalk, curb and gutter or culvert pipe within the right-of-way, without obtaining a permit from the city manager; provided, however, this prohibition shall not apply to any person performing any work under contract with the city or to public utility companies having a franchise from the city.

(Code 1974, § 15-55; Code 1994, § 66-70; Code 2005, § 70-73)

Sec. 70-74. Duties of abutting property owners; failure of property owners to have work done.

It shall be the duty of every owner of real estate in the city abutting on any public street or alley in the city, in front of which real estate or along which street the city engineer may order the construction, reconstruction or repair, or bringing to grade of driveways, sidewalks, culvert pipes, curbs or gutters, or any of them, to cause such improvements to be constructed, reconstructed or repaired or bring such driveways, sidewalks, culvert pipes, curbs or gutters to grade, as the case may be, in accordance with the terms of such order, the specifications set out in this article and on the line and grade as established by the city engineer for the particular block, street or community in which the real estate may be situated. Such property owners shall cause to be constructed such improvements in front of their respective property after the giving of written notice by the building official, which notice shall fix the time for completion of such work. After the expiration of the time indicated in the notice to construct, reconstruct, repair or regrade, if the abutting owner shall not have built such improvements as ordered and indicated in the notice, then the city shall have the right to construct the improvements in accordance with the order for such improvements, and the standard specifications set out in this article under the supervision of the building official, and may advertise for bids or may itself construct such improvements, at the expense of the abutting property owner, and may recover a personal judgment in any court having jurisdiction of the amount for the cost and expense in constructing, reconstructing, repairing or regrading such driveways, sidewalks, culvert pipes, curbs and gutters, with ten percent additional for attorney's fees, and may by ordinance fix a lien on the property improved.

(Code 1974, § 15-56; Code 1994, § 66-71; Code 2005, § 70-74)

Sec. 70-75. Altering lines or grades when putting down permanent street pavement.

The city hereby expressly reserves the right, when putting down a permanent street pavement, either by the original construction or reconstruction, to change or alter the lines and grades of such permanent pavement of the driveway, sidewalks, culvert pipes, curb or gutters on the street, when in the opinion of the building official such change is necessary for the proper paving or drainage of the street, and without liability on the part of the city by reason of such change. If a driveway or sidewalk, the line or grade of which is changed, is in good condition and does not, in the opinion of the building official, require entire reconstruction, the owner thereof shall be given written notice by the building official to break such driveway or sidewalk back to a point fixed by the building official and to remove the broken portion and reconstruct such portion on the line and grade determined by the city engineer, at the cost of such abutting owner. Such notice shall fix the time for the completion of such work. If such owner shall fail or refuse to obey the order of the building official within the time fixed in such notice, he shall be subject to all the

penalties of this article, and the building official shall have the right to have such breaking and reconstructing to grade of such driveway or sidewalk done by a paving contractor, or other person, at the expense of the abutting owner.

(Code 1974, § 15-57; Code 1994, § 66-72; Code 2005, § 70-75)

Sec. 70-76. Violations; penalty.

Any person constructing, reconstructing, repairing or regrading any driveway, sidewalk, culvert pipe, curb or gutter who shall fail first to give the bond required by this article, or who shall construct, reconstruct or repair any driveway, sidewalk, culvert pipe, curb or gutter without obtaining from the city engineer the line and grade therefor, or who shall construct any driveway, sidewalk, culvert pipe, curb or gutter or any other line and grade than that given by the city engineer or without obtaining a permit therefor, or who shall fail to construct, reconstruct, repair or regrade any driveway, sidewalk, culvert pipe, curb or gutter after notice so to do, or who shall violate any other provision of this article, shall be guilty of a misdemeanor.

(Code 1974, § 15-58; Code 1994, § 66-73; Code 2005, § 70-76)

Sec. 70-77. Restricted area.

The areas in the city where construction is restricted under sections 70-78 through 70-80 are as follows:

(1) All of that portion of land lying within a triangular shaped area on each street corner within the city described by metes and bounds as follows: Beginning at the precise corner of intersection point of the curbs of each of the two streets intersecting, forming each corner and extending 20 feet along each such curbline from such curb intersection point, the third side being determined by the drawing of a straight line from the ends of each such 20-foot extension, all as more fully portrayed by the sketch set out in this section (whether such land is privately owned or unpaved or untraveled street right-of-way property).

(2) Where no curbs are in existence at such street intersections, such 20-foot lines shall coincide with the central flow line of the ditches paralleling such uncurbed streets (as such central flow line shall be determined by the engineer of the city).

(Code 1974, § 15-63; Code 1994, § 66-74; Code 2005, § 70-77)

Sec. 70-78. Maximum height of structures.

(a) No property owner shall erect or maintain or cause to be erected or maintained within any area restricted under section 70-77 any wall, fence or other structure, except utility poles, to a height greater than three feet from the street gutter flow line.

(b) The term "street gutter flow line," as used in this section and sections 70-79 and 70-80, means the street gutter flow line of the curb adjacent to and bordering upon each area restricted under section 70-77; if there is no such curb as aforesaid, the height restrictions 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.

(Code 1974, §§ 15-62, 15-64; Code 1994, § 66-75; Code 2005, § 70-78)

Sec. 70-79. Maximum plant height.

No property owner shall plant, grow or maintain or cause to be planted, grown or maintained in any area restricted under section 70-77 any plant, hedge, shrub or other growth, except trees as provided for in section 70-80, at a height greater than four feet from the street gutter flow line.

(Code 1974, § 15-65; Code 1994, § 66-76; Code 2005, § 70-79)

Sec. 70-80. Minimum branch height above street gutter flow line.

Any trees planted, grown and maintained in any area restricted under section 70-77 shall not have branches or foliage extending from the trunk thereof at a height lower than eight feet from the street gutter flow line.

(Code 1974, § 15-66; Code 1994, § 66-77; Code 2005, § 70-80)

Sec. 70-81. Extending into street.

No property owner shall permit the growth of any tree limbs that extend over the curb and gutter into the street at an elevation lower than ten feet above the traveled portion of such street.

(Code 1974, § 15-67; Code 1994, § 66-78; Code 2005, § 70-81)

Sec. 70-82. Violations, notices to owner; penalties.

Any person whose property is in violation of this article shall first receive a 30-day written notice which may be delivered to any adult person at such person's residence; and, if the condition in violation has not been corrected within 30 days from the date of such notice, before prosecution may commence by complaint in the municipal court, a 30-day notice in writing shall be mailed, certified, return receipt requested, which notice shall set out in detail the conditions to be corrected. If the person receiving such notice fails to make the corrections required thereby within 30 days from the date of the receipt thereof, such person shall be deemed to have violated the terms and provisions of this article and shall be guilty of a misdemeanor.

(Code 1974, § 15-68; Code 1994, § 66-79; Code 2005, § 70-82)

Sec. 70-83. Entry by city to correct conditions.

In addition to the penalty for violation of the provisions of this article, the city shall be entitled to enter upon and remove from the triangular corner areas provided for in section 70-77 any of the prohibited structures or growths, and such entry and removal upon the private property portions of such triangular areas shall be without liability to the owners thereof.

(Code 1974, § 15-69; Code 1994, § 66-80; Code 2005, § 70-83)

Sec. 70-84. Exceptions to article.

(a) *Improved property as permitted by zoning*. The provisions of this article, to the extent of private property only, shall not apply to property which is zoned so as to permit the erection of buildings on the property line; however, any of such property which is unimproved by buildings and physical structures shall be subject to the terms of this article so long as such property is unimproved.

(b) *Existing structures*. The provisions of this article shall not apply to any business building, family dwelling or apartment house existing in the city prior to the enactment of this article, and not in violation of any law of the state or ordinance of the city.

(c) *Control of streets by city*. The provisions of this article shall have no bearing or effect upon the right of the city to administer and control the remaining portions of its public street rights-of-way not involved in the triangular corner areas provided for in section 70-77.

(Code 1974, §§ 15-70--15-72; Code 1994, § 66-81; Code 2005, § 70-84)

Secs. 70-85--70-111. Reserved.

ARTICLE IV. EXCAVATIONS

DIVISION 1. GENERALLY

Sec. 70-112. Restoration of streets, etc.

When any part of any street, alley, avenue or other public place in the city is torn, dug up or taken up for any purpose, the person doing the same shall, immediately upon the completion of such purpose, and as fast as practicable during the accomplishment thereof, return the earth and ram and puddle the same to firm and solid bearing, in such manner as will entirely prevent the settling of such earth, and shall also relay the paving, macadamizing or gravel in a skillful and permanent manner, and in every case to the entire satisfaction of the city manager; and if the excavation requires the breaking out of concrete, the concrete shall be broken, cut or removed in a skillful manner and along substantially straight lines.

(Code 1974, § 15-24; Code 1994, § 66-101; Code 2005, § 70-112)

Sec. 70-113. Barricades and lights.

It shall be unlawful for any person to make any excavation of whatsoever kind in the city, whether such excavation is in, along or near any street or sidewalk, alley or highway of any kind, without placing proper guardrails and signal lights or other warnings at, in or around the excavations, sufficient to warn the public of such excavations and to protect all persons using reasonable care thereon from accidents on account of such excavations.

(Code 1974, § 15-25; Code 1994, § 66-102; Code 2005, § 70-113)

Sec. 70-114. Trench excavation safety compliance.

No permit shall be issued for any construction project requiring trench excavation exceeding five feet in depth unless the applicant for the permit complies with the requirements in V.T.C.A., Health and Safety Code § 756.022(a).

(Code 1994, § 66-103; Code 2005, § 70-114)

Secs. 70-115--70-141. Reserved.

DIVISION 2. PERMITS

Sec. 70-142. Required.

It shall be unlawful for any person, under any pretext whatever, to make an excavation in any street, alley, sidewalk or other public way in the city until written application has been made upon blanks furnished by the city and until such person has received a written permit from the city manager authorizing the same; except that if an emergency exists where the health and safety of the citizens of the city are in danger, or for the immediate preservation of property, an excavation may be made to the extent of abating the dangerous condition or situation, provided that upon relieving the existing emergency, the provisions of this article shall be followed.

(Code 1974, § 15-16; Code 1994, § 66-116; Code 2005, § 70-142)

Sec. 70-143. Application; issuance.

Each application for an excavation shall describe the character of the work to be done, a full description of the premises where such work is to be done, and shall be signed by the person applying for the permit. The permit shall be issued in duplicate, the original to be delivered to the party applying therefor, and one copy to be filed in the office of the city manager, together with the application.

(Code 1974, § 15-17; Code 1994, § 66-117; Code 2005, § 70-143)

Sec. 70-144. Personal to applicant.

Permits shall be obtained by the person doing the work described in the application, and it shall be unlawful for any other person to do the work described in the permit issued on the basis of such application unless such person is an employee of the person in whose name the permit is issued.

(Code 1974, § 15-18; Code 1994, § 66-118; Code 2005, § 70-144)

Sec. 70-145. Fees.

A fee set by resolution and printed in Appendix D to this Code shall be charged for each excavation permit. No additional fees shall be charged unless replaced work is unsatisfactory to the city manager.

(Code 1974, § 15-19; Code 1994, § 66-119; Code 2005, § 70-145)

Sec. 70-146. Expiration.

Every permit shall be considered cancelled if active work under such permit is not commenced within 30 days from its date. Any fees paid in connection with a permit which is cancelled shall be retained by the city.

(Code 1974, § 15-20; Code 1994, § 66-120; Code 2005, § 70-146)

Sec. 70-147. Violation of conditions; revocation; repair by city.

(a) Should the city manager become convinced that the work under an excavation permit is not proceeding in accordance with the permit and the detailed application upon which the permit was issued, or is being done in violation of city specifications or is creating a safety hazard, it shall be his duty to notify the contractor or owner in writing that such work is being constructed in violation of the permit, and such work must be corrected within three days from the date of notice. If the contractor or owner neglects to comply with the notice, or fails to make corrections within the prescribed time, it shall be the duty of the city manager to revoke the permit, and notice thereof in writing shall be immediately served on the owner, superintendent or contractor in charge of the work. Such notice shall be in writing and signed by the city manager or his authorized representative.

(b) After revocation of an excavation permit, any permittee or workman performing any work in or about such excavation shall be guilty of a misdemeanor.

(c) If a permit is revoked, the city shall cause the excavation to be repaired according to the provisions of this article and the charges shall be a valid claim against the permittee and his sureties.

(Code 1974, § 15-21; Code 1994, § 66-121; Code 2005, § 70-147)

Sec. 70-148. Surety bond required; conditions.

(a) No excavation permit shall be issued to any person in the city until such person shall have filed with the city a bond in the sum set by resolution and printed in Appendix D to this Code, with good and sufficient sureties, to be approved by the city manager. If a bonded franchise company does the work, he shall be required to file only one bond.

(b) The conditions of the bond required by this section are as follows:

(1) The permittee will perform all work in a good and workmanlike manner in strict accordance with the provisions of this article;

(2) The permittee will backfill any excavations in any streets, alleys, sidewalks or other public ways in the city, so as to return such streets, alleys, sidewalks and other public ways to their original condition;

(3) The permittee will place and maintain lights and guardrails around all excavations, materials or equipment left in any street, alley, sidewalk or other public place of the city; and

(4) The permittee will hold the city harmless from all damages, real or asserted, that may occur by reason of the excavation.

(Code 1974, §§ 15-22, 15-23; Code 1994, § 66-122; Code 2005, § 70-148)

Secs. 70-149--70-179. Reserved.

DIVISION 3. RIGHT-OF-WAY MANAGEMENT*

***State law reference**—Municipal management of public rights-of-way used by telecommunications providers, V.T.C.A., Local Government Code § 283.001 et seq.

Sec. 70-180. Title.

This division may be known and cited as the "Right-of-Way Management Ordinance for the City of Friendswood, Texas."

(Code 1994, § 66-126; Code 2005, § 70-180; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-181. Construction; governing law; venue.

This division shall be construed under and in accordance with the laws of the state and the city Charter and this Code to the extent that such Charter and this Code are not in conflict with or in violation of the Constitution and laws of the United States or the state. All obligations of the parties hereunder are performable in the county. The provisions of this division are in addition to any other requirement of this Code, and where there is a conflict, the more stringent provisions shall be required.

(Code 1994, § 66-127; Code 2005, § 70-181; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-182. Scope.

This division shall be effective within the geographical limits of the city, including any areas subsequently annexed by the city.

(Code 1994, § 66-128; Code 2005, § 70-182; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-183. Definitions.

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

Emergency means a situation which, unless immediate remedial action is taken, will likely result in harm to public health, safety, and/or welfare.

Facilities or *facility* means and includes, but shall not be limited to, pipes, conduits, wires, cables, towers, switches, amplifiers, transformers, fiber optic lines, antennae, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, fixtures, appurtenances, and such other objects, devices, or other items of tangible personal property, which are designed, constructed, installed, placed, used or operated in, upon, over, across, above, or below public rights-of-way. Notwithstanding the foregoing, structures designed and constructed for the support and passage of vehicular and pedestrian traffic, such as streets, alleys, highways, driveways, and sidewalks, whether at, below, or above grade, shall not be deemed to be facilities. A private, individually owned, connection and/or attendant downstream

service line or device, through which a utility service is received by the end-user owning same, for which required permits have been issued under applicable building, plumbing, electrical, or other codes of the city, shall not be deemed as facilities.

Person means an individual, corporation, association, partnership, joint venture, firm, limited liability partnership, joint stock company, association, governmental entity other than city, or any other public or private entity.

Public rights-of-way or *public right-of-way* means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property within the corporate limits of the city, and in which the city holds a property interest (fee title, easement or otherwise), or over which the city holds and exercises a right of management or control, and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of facilities.

User means a person having facilities within a public right-of-way.

(Code 1994, § 66-129; Code 2005, § 70-183; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-184. Unauthorized use of public rights-of-way prohibited.

Except as otherwise specifically provided by law or this division, it shall be unlawful for any person to cause or permit the placement, construction, operation or maintenance of any facility within public rights-of-way, unless authorization has been granted by the city in accordance herewith.

(Code 1994, § 66-130; Code 2005, § 70-184; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-185. Registration required.

It shall be unlawful for any person to place facilities within public rights-of-way without having first filed with the city an application for registration therefor. The registration fee shall be set by resolution and printed in Appendix D to this Code. Applications for registration shall be filed with the city secretary. The city secretary shall issue a registration certificate to each person successfully completing and filing such application. Each registration certificate shall be issued in the name of the user. Registration certificates shall be renewed every 60 months. When information provided in an application for a registration certificate is no longer correct, the user shall inform the city, in writing, within 30 days following the date of such change. Each application for registration shall include:

(1) The name and legal status of the user;

(2) The name, address, telephone number, primary e-mail address, and fax number of the individual who will be the contact for the user;

(3) The name, address, telephone number, primary e-mail address, and fax number of the individual who will be the contact for field location of facilities;

(4) The name, address, telephone number, primary email address and fax number of an emergency contact who shall be available 24 hours a day; and

(5) Proof of insurance and bonding, as otherwise required herein.

(Code 1994, § 66-131; Code 2005, § 70-185; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-186. Construction within public rights-of-way.

It shall be unlawful for any person to cause or permit the construction or installation of facilities within public rights-of-way within the city, except as provided by this division and any other ordinance of the city applicable thereto.

(Code 1994, § 66-132; Code 2005, § 70-186; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-187. Construction regulations.

(a) *Excavations*. All excavations and other construction in the public rights-of-way shall be performed in accordance with all applicable state, federal, and city regulations.

(b) *Interference with use of property*. All construction within public rights-of-way shall be undertaken so as to minimize interference with the use of public and private property and in accordance with any lawful direction given by the city under the police and regulatory powers of the city.

(c) *Construction permits*.

(1) It shall be unlawful for any person to cause or permit any work which involves the construction, installation, expansion, repair, removal, or maintenance of facilities within public rights-of-way without having first applied for and obtained from the city a construction permit therefor. Permit fees shall be set by resolution and printed in Appendix D to this Code; provided, however, acquisition of construction permits shall not be required for any such work that does not involve the alteration or disturbance of the surface of the right-of-way. Each construction permit application shall include a written work description, including construction drawings, showing the facilities' location (or proposed location) and the estimated depth of the facilities (existing and proposed) in the immediate area of the proposed new construction. Such drawings shall be reviewed by the city and, if disapproved, returned with comments setting forth the reasons for such disapproval. Approvals shall not be unreasonably withheld or delayed. Except as otherwise specifically provided herein, work shall not commence until applicable construction permits have been approved therefor. Review and approval by the city of construction permits as provided herein shall not constitute any representation or warranty regarding the sufficiency of design or construction of such facilities. All such work shall be in conformance with the approved construction permit.

(2) Work for which a permit is required may be performed at any time; provided, however, any such permitted work performed within 500 feet of any residential structure may only be performed between the hours of 6:00 a.m. and 10:00 p.m. Any permitted work performed outside of the above working hours must be approved in advance by the city manager or his/her designee.

(3) Further, all such construction and/or installation work shall be completed in the time specified in the construction permit. If the work cannot be completed within the specified time period, the user may request an extension from the city manager, or his/her designee, which extension shall not be unreasonably withheld.

(d) *Emergency repairs; restoration of service*. Notwithstanding other provisions of this division, during an emergency where, in the good faith judgment of the user, failure to act immediately could jeopardize public health, safety, or general welfare, or in situations where a repair is necessary to restore service to a customer, such user may perform repairs to facilities within public rights-of-way, which involve the alteration or disturbance of the surface of such public right-of-way, without prior notification to, or acquisition of, a construction permit from, the city. In such cases, the user shall notify the city manager or his/her designee as promptly as possible after beginning the work, but in no event later than the close of business on the next business day, stating the nature of such repairs and, if not completed, the length of time estimated to complete same. The user shall apply for the required approvals as soon as reasonably practicable, and any work performed that is not consistent with then applicable city standards shall be corrected upon notice thereof from the city.

(e) *Restoration of surface*. Users may excavate public rights-of-way only for the purpose of, and to the extent reasonably required for, the construction, installation, expansion, repair, removal, or maintenance of its facilities. Upon completion of work, the user shall promptly restore the surface of the affected public right-of-way to a condition that equals or exceeds its condition prior to such construction. To such end, the user shall replace excavated areas with the same type of materials as those removed, unless alternate equivalent materials are approved by the city. The restoration shall comply with the following requirements:

(1) Replacing all ground cover equal to or better than the type of ground cover damaged during work, either by sodding or seeding, or natural growth;

(2) Installation of all manholes and handholes as required;

(3) All bore pits, potholes, trenches or any other holes shall be filled in or covered daily, unless other safety requirements are approved by the director of public works;

(4) Leveling of all trenches and backhoe lines;

(5) Restoration of excavation site to city specifications; and

(6) Restoration of all landscaping and other affected structures such as sprinkler systems and mailboxes.

(f) *Maintenance period; delay in construction*. All restoration work shall be maintained by the user to the satisfaction of city for a period of one year from the date of completion of such restoration work. No public right-of-way shall be encumbered by construction, maintenance, removal, restoration, or repair work for a longer period than shall be necessary to execute such work. If there is an unreasonable delay by the user in restoring and maintaining the public right-of-way or restoring such public right-of-way after such excavations, construction, installation or repairs have been made, the city shall notify the user in writing that if such restoration or maintenance is not performed within five days of receipt of such notice, the city shall have the right to restore or repair the same and to require the user to pay the reasonable cost of such restoration or repair. Furthermore, if restoration is not satisfactory and performed in a timely manner, all work in progress, except that related to the problem, including all work previously permitted but not complete, may be halted and a hold may be placed on any permits not approved until all restoration is complete.

(g) *Routine maintenance*. Routine maintenance on facilities located within public rights-of-way shall be conducted in a manner that is consistent with applicable city regulations governing such work, if any.

(h) *Obstructions to traffic*. Any obstruction of vehicular or pedestrian traffic resulting from construction or repair activities to facilities, other than for emergency repairs, shall require prior notification to the city manager or his/her designee. Any such work shall be performed in a manner calculated to cause the least inconvenience to the city and the public as is reasonably possible under the circumstances. When a user performs or causes to be performed any work over or across a public street or sidewalk, or so closely adjacent thereto as to create hazards for the public or itself, the user shall provide construction and maintenance signs and sufficient barricades and flagmen at such sites as are reasonably necessary to protect the public and the user's equipment and workers. The application of such traffic control devices shall be consistent with the standards and provisions of the latest edition of the state manual on uniform traffic control devices. Appropriate warning lights shall be used at all construction and maintenance zones where one or more traffic lanes are being obstructed during nighttime conditions.

(i) *Closing of streets*. If a user's work requires the obstruction of any street for a period longer than two hours, such obstruction shall be approved by the city manager or his/her designee. The user shall not close any public street, but shall at all times maintain a route of travel along

and within any roadway that is within a public right-of-way, provided, however, in cases of an emergency, the city manager or his/her designee may authorize the temporary closing of a public street or sidewalk to allow the user to complete such emergency repairs if, in the opinion of the city manager or his/her designee, such closing is necessary to protect the safety of the general public.

(j) *Construction drawings*. Within 120 days following completion of construction, or within 120 days following any material alteration or modification thereto, the user shall supply the city with a complete set of construction drawings for the work, or for the material alteration or modification thereof, unless the user certifies to the city, in writing, that such construction was completed in accordance with the construction plans filed pursuant to this division, in which case, such construction plans shall be marked accordingly by the city and filed as the "permanent construction drawings." For the purposes hereof, a material alteration or modification of a facility shall be deemed to have occurred if such alteration or modification would render the existing construction drawings inaccurate and/or misleading regarding the location of a structural component thereof. Such drawings shall be of sufficient detail to allow the city to determine the location of the facilities with reasonable accuracy. In lieu of print documents, a user may, upon advance reasonable request, provide such drawings and maps by other mediums, including electronic mediums, provided the city has the capability to access such information.

(Code 1994, § 66-133; Code 2005, § 70-187; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-188. Conservation of public rights-of-way.

(a) To the extent the city may be authorized by state or federal law to do so, and to the extent reasonable under the circumstances then existing, the city may require a user to attach portions of its facilities to other facilities within the public rights-of-way owned and maintained by other persons. A user shall not be required to attach its facilities to the facilities of such other persons if it is shown that such user would be subjected thereby to increased risks of interruption to its service, to increased liability for accidents, or to unreasonable delays in construction or availability of service, or if the facilities of such other person are not of the character, design, or construction required by, or are not being maintained in accordance with, current practice, or are not available to the user on reasonable terms, including, without limitation, reasonable fees.

(b) Insofar as is practical to do so, users shall use existing facilities in the provision of their services; provided, however, nothing contained herein shall be construed as limiting a user from expanding its facilities to accommodate future growth and development. Users shall provide information to the city relating to the location and/or operation of their facilities or services as may be reasonably necessary for municipal planning purposes.

(Code 1994, § 66-134; Code 2005, § 70-188; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-189. Relocation or removal of facilities.

(a) To the extent the city may be authorized by law to do so, a user may be required to lower, place underground, relocate, or remove any facility within any public right-of-way, without cost to the city, if reasonably necessary, as determined by the city council, to abate a condition actually or potentially dangerous to public health or safety, or as may be reasonably necessary to accommodate the construction, repair, maintenance, removal, or installation of any publicly funded city project within the city in, upon, or under public rights-of-way, including, without limitation, street construction and widening, water, sanitary sewer, storm drains, streetlights, and traffic signal conduits, or any other public facilities in, upon, or under the public rights-of-way. In the alternative, where the city council determines it to be feasible, a user may be allowed to pay the additional costs incurred for the design and/or construction of any such publicly funded city project in a manner that would avoid the necessity of relocation or removal of the facilities. A user shall be provided the opportunity to collaborate in advance with the city and/or propose

alternatives in order to minimize cost, better schedule the work, and accommodate suitable refinements and/or joint work with others.

(b) In the event of any such requirement for lowering, placing underground, relocating, or removing facilities as herein provided, the user shall complete same as soon as is reasonably practicable following written notice thereof by the city.

(Code 1994, § 66-135; Code 2005, § 70-189; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-190. Obsolete facilities.

Users shall remove facilities from the public rights-of-way when such facilities are obsolete, are no longer in service, and create either visual blight or a nuisance to the public; provided, however, a user shall not be required to remove any facility for which renovation or restoration is planned by the user, and which renovation or restoration is completed within a reasonable period of time. When permanent structures in public rights-of-way are removed, the city shall be notified in writing of such removal.

(Code 1994, § 66-136; Code 2005, § 70-190; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-191. Bonding.

All users other than governmental units shall comply with all applicable regulations of the city relating to the provision of bonds or other security which may be required in connection with work in public rights-of-way.

(Code 1994, § 66-137; Code 2005, § 70-191; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-192. Temporary rearrangement of aerial wires and cables.

Upon request, a user shall remove or raise or lower its aerial facilities temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting same, excluding requests by the city. The user may require payment in advance. The user shall be given a reasonable amount of advance notice to provide for such rearrangement.

(Code 1994, § 66-138; Code 2005, § 70-192; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-193. Tree trimming.

Users shall comply with all applicable rules and regulations of the city governing the trimming, grooming, or removal of tress or other similar vegetative matter.

(Code 1994, § 66-139; Code 2005, § 70-193; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-194. Erosion and stormwater measures.

Erosion control measures shall be implemented prior to commencement of any work. The user shall comply with stormwater management erosion control that complies with the city, state and federal laws, regulations, and guidelines. Requirements may include, but not be limited to, silt fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established and barricade fencing around open holes. High erosion areas shall require wire-backed silt fencing.

(Code 1994, § 66-140; Code 2005, § 70-194; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-195. Placement of facilities.

All facilities constructed or installed on or after the effective date of the ordinance from which this division is derived shall be buried underground where possible. Pedestals, junction boxes, metering facilities and similar appurtenances may be placed aboveground. Users shall not place facilities within public rights-of-way in such a manner as to unreasonably interfere with existing

electrical, cable, or telecommunications fixtures, water hydrants or mains, or drainage or sanitary sewer facilities, and all such facilities shall be placed in such manner as not to interfere with usual travel or public and/or municipal use of the public rights-of-way. The city shall have the right to direct the location of facilities in the public rights-of-way. The installation, repair, construction, maintenance, and replacement of facilities in the rights-of-way shall be subject to inspection and approval by the city. Users shall cooperate fully with the city in conducting inspections. Users shall promptly perform remedial action required by the city pursuant to such inspection.

(Code 1994, § 66-141; Code 2005, § 70-195; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-196. Line location and identification.

Users shall be responsible for obtaining line locations from the state one-call system, the city, and all affected utilities and others with facilities in public right-of-way, prior to any excavation. Use of the geographic information system or plans of record shall not satisfy this requirement. The user shall be responsible for verifying the location, both horizontal and vertical, of all facilities. When required by the city manager or his/her designee, a user shall verify locations of potential conflicts with existing facilities by pot holing, hand digging, or other similar method, prior to any excavation or boring. Placement of all manholes and/or hand holes must be approved in advance by the city manager or his/her designee. Hand holes or manholes shall not be located in sidewalks unless approved by the city manager or his/her designee. Location flags shall not be removed while facilities are being constructed. All location flags shall be removed during the cleanup process by the user at completion of the work. The user, or his agent, contractor, or subcontractor, shall notify the city manager or his/her designee immediately of any damage to other utilities.

(Code 1994, § 66-142; Code 2005, § 70-196; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-197. Planning for capital improvement projects.

Users shall apprise the city of existing and planned construction, maintenance, and other activities of the user within public rights-of-way. Except for emergencies, users shall coordinate all installations and construction within the public rights-of-way with the city's capital improvement programs. Within 60 days following adoption of each city annual fiscal year budget, the city shall forward, in writing, a list of the improvement projects (including street widening, street overlay, bridge improvement, new street construction, drainage and utility improvement, and park improvement projects) which are included in the adopted budget. Within 60 days following receipt of the city's list of improvement projects for the subsequent fiscal year, each user shall provide a written report to the city identifying and describing generally the existing facilities that are within or cross through the boundaries of each project identified by the city. The city and the user shall provide to each other the names of their respective designated officials who will serve as representatives for coordination of the exchange of information and planning on any such project. Users shall field locate their facilities, and identify same with surface markings, within 15 working days following the city's request therefor.

(Code 1994, § 66-143; Code 2005, § 70-197; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-198. Guarantee of performance.

Except as provided elsewhere in this division, each user, at the time of submission of its initial and each renewal registration application, shall file with the city a guarantee of performance of the user's obligations hereunder, whether to be performed by the user or any other person on behalf of the user, to complete the installation of its facilities within the public rights-of-way, in accordance with the permits and approved plans and specifications therefor. Such guarantee shall be payable to the city, in the amount as set by resolution and printed in Appendix D to this Code; provided, however, in the event a user applies for a permit for work in which the estimated cost of restoration will exceed such amount, such user shall file a supplemental guarantee for such

additional reconstruction costs. Such guarantee may take the form of a bond, an irrevocable letter of credit, or a statement of fiscal responsibility, as set forth below.

(1) *Bonds*. A corporate surety bond issued by a corporate surety authorized to do business in the state. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety, nor may any intention not to renew be exercised by the surety until 60 days after receipt by the city, by registered or certified mail or written notice, of such intent to cancel or to not renew." The rights reserved to the city with respect to the bond are in addition to all other rights of the city and no action, proceeding, or exercise of a right with respect to such bond shall affect any other rights of the city;

(2) *Letters of credit*.

a. An irrevocable letter of credit, in a form satisfactory to the city manager and the city attorney. The letter of credit shall be issued by a federally insured commercial lending institution with a credit rating of BAA or BBB+ or higher. The federally insured commercial institution on which the irrevocable letter of credit is to be drawn shall be acceptable to the city. The irrevocable letter of credit shall contain the following endorsement:

"At least 60 days' prior written notice shall be given to the city manager by the financial institution of any intention to cancel, replace, fail to renew, or materially alter this irrevocable letter of credit. Such notice shall be given by certified mail to the city manager and city attorney. The city may draw upon this irrevocable letter of credit by presentation of a draft at sight, accompanied by a written certificate signed by the city manager of the city, certifying that _____ (user) has failed to comply with provisions of ordinances applicable to _____ (user's) use of public rights-of-way within the City of Friendswood";

b. After providing a user with 30 days' advance written notice of any amount due and owing, and the user's failure to pay such amounts, the city may draw upon the irrevocable letter of credit by presentation of a draft at sight, on the lending institution, accompanied by a written certificate signed by the city manager certifying that the user has failed to comply with the provisions of this division; or

c. The user shall structure the irrevocable letter of credit in such a manner that if the city draws upon the irrevocable letter of credit and reduces the amount of available credit to an amount below the required amount, the user shall replenish the irrevocable letter of credit to a minimum required within five calendar days after the available credit is reduced to an amount below the required amount. The intent of this section is to ensure that the credit available to the city shall at no time fall below the required amount; or

(3) *Statement of fiscal responsibility*. Written evidence, in the form of its most recent audited financial statement, showing assets or reserves sufficient to cover the amount of the guarantee required by this section. If the user's assets or reserves are no longer adequate to comply with the amounts required by this section, the user shall immediately notify the city and shall obtain a bond or letter of credit as set forth above.

The rights reserved to the city with respect to the financial guarantees provided for in this section are in addition to all other rights of the city, whether reserved by this division or otherwise authorized by law, and no action, proceeding, or right with respect to the guarantee shall affect any other right the city has or may have.

(Code 1994, § 66-144; Code 2005, § 70-198; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-199. Insurance and indemnity.

(a) *Insurance*. A user shall procure and maintain insurance in full force and effect at all times while its facilities are located in the public rights-of-way. The insurance shall cover all risks associated with the use and occupancy of such rights-of-way. Coverages shall be on an "occurrence basis." The insurance requirements applicable to a user under this section shall be applicable to all persons performing work within public rights-of-way on behalf of such user unless such person is covered, or named as an additional insured, under the policies of insurance supplied by the user pursuant hereto. If any person other than a user is required to provide such insurance, the provisions referring to a user herein below shall be construed to mean such person.

(1) *Risks and limits of liability*. The insurance, at a minimum, must include the coverages and limits of liability as set by resolution and printed in Appendix D to this Code.

(2) *Form of policies.* The insurance may be in one or more policies of insurance, the form of which must be approved by the state insurance commission.

(3) *Issuers of policies.* The issuer of any policy shall be authorized to transact insurance business in the state.

(4) *Insured parties*. Each policy shall name the user and the city (and the officers, agents and employees of the city) as insured parties.

(5) *Deductibles*. The user shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claims it may ever have for the deductible amounts against the city, its officers, agents or employees.

(6) *Cancellation*. Each policy shall expressly state that it may not be canceled or nonrenewed unless 30 days' advance notice of cancellation or nonrenewal is given in writing to the city.

(7) *Subrogation*. Each policy shall contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the city, its officers, agents or employees.

(8) *Liability for premium*. If any of the policies referred to above do not have a flat premium rate, and such premium has not been paid in full, such policy shall have a rider or other appropriate certificate or waiver sufficient to establish that the issuer is entitled to look only to the user for any further premium payment and has no right to recover any premiums from the city.

(9) *"Other insurance" clause*. The insurance policy shall provide that the "other insurance" clause does not apply to the city where the city is shown on the policy as an additional insured.

(10) *Delivery of policies*. The originals of all policies referred to above, or copies thereof certified by the agent or attorney-in-fact issuing them, together with written proof that the premiums have been paid, shall be deposited by the user with the city secretary prior to commencement of any work. Failure on the part of the user to furnish a new policy or certified copy thereof before the expiration date of any such policy, or failure to obtain a new policy before the date fixed for the cancellation of an existing policy, so that the insurance referred to shall be continuously in effect, shall constitute a violation hereunder.

(11) *Liability of user*. The city's approval, disapproval, or failure to act regarding any insurance supplied by a user shall not relieve such person from full responsibility or liability for damages and accidents arising out of use or occupancy of public right-of-way.

Neither bankruptcy, insolvency nor denial of liability by the insurance company shall exonerate the user from liability.

(12) *Self-insurance*. A user may elect to self-insure to provide the insurance coverage required hereunder, subject to the restrictions set forth in this subsection, provided the user submits to the city copies of its certificates of self-insurance from the state department of insurance, and its most recent audited financial statements showing self-insurance reserves or other assets sufficient to pay judgments equal to the limits set forth above. A user shall also provide to the city documentation evidencing its process for reviewing and paying claims. The city shall be protected by a user's self-insurance to the same extent as an additional insured on a policy issued by an insurance company. If a user's self-insurance program ceases, or a user's assets or reserves are no longer sufficient to comply with the above coverage requirements, the user shall immediately notify the city of such lapse of coverage, and the user shall obtain commercial insurance, in accordance with the above requirements, within 30 days following such notice.

(b) *Indemnity*. To the extent permitted by law, each user, and each person performing work within a public right-of-way as a contractor on behalf of a user, shall indemnify and hold the city harmless as set forth below. If any person other than a user is required to provide such indemnity, the provisions referring to a user hereinbelow shall be construed to mean such person. The user shall 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 city's property, equipment, materials, structures, and facilities which are damaged, destroyed, or found to be defective solely as a result of the user's acts or omissions; and

(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, but not limited to, the user, its agents, officers, employees, and subcontractors, and the city, its agents, officers, and employees, and third parties); and/or

b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the officers, agents, and employees of the user, the user's contractors, and the city's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from, the negligent or willful acts or omissions of the user, its officers, agents, employees, and/or subcontractors, in the performance of activities pursuant to this division. This indemnity provision is intended to include liability arising from the city's alleged negligence, but only to the extent such liability arises out of a claim or claims that the city was negligent in authorizing the user to use or occupy the public rights-of-way, in regulating the conduct of the user, or in failing to prevent the user from acting in a negligent or wrongful manner. For purposes of this indemnification provision, acts or omissions of the officer, agents, employees and contractors of the user shall be considered the acts and omissions of the user. The indemnity provision set forth above is solely for the benefit of the city and the user and is not intended to create or grant any rights, contractual or otherwise, to any other person.

(Code 1994, § 66-145; Code 2005, § 70-199; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-200. Revocation or denial of construction permits.

If any provision of this division is not followed, a permit for the construction of facilities may be revoked. If a person has not followed the terms and conditions of this division with respect to

work done pursuant to a prior permit, new permits may be denied or additional terms may be required.

(Code 1994, § 66-146; Code 2005, § 70-200; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-201. Appeal from denial or revocation of permit.

Appeals from denials or revocations of permits shall be to the city council. Appeals shall be filed with the city secretary within 15 days from the date of the denial or revocation. A hearing shall be held within 30 days of the date the appeal is filed with the city secretary.

(Code 1994, § 66-147; Code 2005, § 70-201; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-202. Conflicts with existing franchises.

In the event of conflict between the provisions of this division and any franchise or other written authorization heretofore approved by city, the provisions of this division shall control.

(Code 1994, § 66-148; Code 2005, § 70-202; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-203. Notice.

Any notice required to be given by to city hereunder shall be given in writing, and may be effected by:

(1) Personal delivery if delivered to the city manager or his/her designee;

(2) Facsimile or electronic mail, if delivered to the said city manager or his/her designee and to the city secretary; or

(3) United States Mail, postage prepaid, registered or certified, return receipt requested, addressed to the city manager or his/her designee and the city secretary. No notice shall be deemed given until actual receipt by city as hereinabove set forth.

(Code 1994, § 66-149; Code 2005, § 70-203; Ord. No. 2000-37, § 3, 9-25-2000)

Sec. 70-204. Penalties.

(a) *Criminal penalty*. Any person who shall violate any provision of this division shall be deemed guilty of a misdemeanor. Prosecution for, and imposition of, criminal penalties under this section shall not bar the city from seeking other additional remedies as may be provided in this division, by law, or in equity.

(b) *Civil penalties*. Civil penalties may be imposed for violation of any provision of this division, as follows:

(1) Up to $1,000.00 for each violation, and each day of a continuing violation may be considered a new violation; and/or

(2) Revocation of any or all permits granted to allow work in public rights-of-way, subject to procedural guidelines provided in this division, any agreement which applies to the person subject to the complaint, and subject to any limitation imposed by federal or state law.

(Code 1994, § 66-150; Code 2005, § 70-204; Ord. No. 2000-37, § 3, 9-25-2000)

Chapters 71--73

RESERVED

Chapter 74

TAXATION*

***State law reference**—Taxes to be levied and collected by general laws and for public purposes only, Tex. Const. art. 8, § 3; power authorized by charter to impose taxes and impose charges for delinquency, V.T.C.A., Tax Code § 302.102(b); power of home rule municipality to levy general or special property taxes for lawful purposes, V.T.C.A., Tax Code § 302.001(c); residence homestead exemption, Tex. Const. art. 8, § 1-b; residence homestead exemptions, V.T.C.A., Tax Code § 11.13; municipal sales and use tax act, V.T.C.A., Tax Code § 321.001 et seq.; municipal hotel occupancy tax, V.T.C.A., Tax Code § 351.001 et seq.

Charter reference—Taxation, art. VII; financial matters, § 8.01; budget, § 8.03; purchases, § 8.08; accounting procedure for utilities, § 9.11.

ARTICLE I. IN GENERAL

Sec. 74-1. Additional penalty for collection costs.

The city hereby avails itself of the provisions of V.T.C.A., Tax Code § 33.07, regarding property tax collection costs.

(Code 1974, § 6-3; Code 1994, § 70-1; Code 2005, § 74-1)

Sec. 74-2. Penalty to delinquent taxpayers to defray costs of collecting delinquent property taxes.

(a) The city council hereby adopts an additional 20 percent penalty to defray the costs of collection of all delinquent taxes, penalties and interest which become delinquent on or after February 1 of a year, but not later than May 1 of that year and that remain delinquent as of July 1 of that year, as authorized by V.T.C.A., Tax Code § 33.07, and under preceding state law, for the 2002 tax year, and for each succeeding year thereafter.

(b) The city council hereby adopts an additional 20 percent penalty to defray the costs of collection of all delinquent taxes, penalties and interest which become delinquent on or after July 1 under V.T.C.A., Tax Code § 26.07(f), 26.15(e), 31.03, 31.031, 31.032, 31.04 or 42.42, as authorized by V.T.C.A., Tax Code § 33.08, and under preceding state law, for the 2002 tax year, and for each succeeding year thereafter.

(Code 1994, § 70-2; Code 2005, § 74-2; Ord. No. 2003-06, §§ 2, 3, 5-19-2003)

Sec. 74-3. Property tax limitation for disabled and/or elderly persons.

The city hereby adopts the property tax limitation authorized by Article VIII, Section 1-b(h), Texas Constitution (Proposition 13) and V.T.C.A., Tax Code § 11.261, on the residential homestead of a person who is disabled or a person who is 65 years of age or older.

(Code 2005, § 74-3; Ord. No. 2005-29, § 1, 11-21-2005)

Secs. 74-4--74-22. Reserved.

ARTICLE II. OCCUPATION TAX*

***State law reference**—Authority to levy one-half of state occupation tax, Tex. Const. art. 8, § 1; occupation tax on oil and gas wells, V.T.C.A., Tax Code § 191.081 et seq.; municipal governing body may impose and collect occupation taxes, V.T.C.A., Tax Code § 302.101; local occupational tax prohibited unless specifically permitted by state law, V.T.C.A., Tax Code § 101.008; occupation tax on coin operated machines, V.T.C.A., Occupations Code § 2153.451.

Sec. 74-23. Annual levy.

There is hereby levied and there shall be collected from every person in the city pursuing any occupation taxed by the general laws of the state an annual occupation tax equal in each instance to one-half of the state occupation tax, which taxes shall be paid annually in advance, except

where otherwise provided by state law, in which event the tax may be paid as is provided by the state law.

(Code 1974, § 11-1; Code 1994, § 70-26; Code 2005, § 74-23)

Sec. 74-24. To whom payable; crediting to general fund.

The occupation taxes levied in section 74-23 are to be paid to the office of the assessor and collector of taxes and by him accounted for and deposited to the credit of a city general fund.

(Code 1974, § 11-2; Code 1994, § 70-27; Code 2005, § 74-24)

Secs. 74-25--74-49. Reserved.

ARTICLE III. IMPACT FEES*

***Editor's note**--Section 2 of Ord. No. 2013-35 adopted October 7, 2013, states: The capital improvements plan, included in a study by James E. Thompson, P.E., entitled "2013 Update Study for Land Use Assumptions Capital Improvements Plan and Impact Fees Water Supply/Distribution and Wastewater Treatment/Collection Systems" is incorporated by reference and attached hereto as Exhibit "A." Such study is on file with the city.

Sec. 74-50. Authority.

The city is authorized to enact this article by V.T.C.A., Local Government Code ch. 395, which authorizes home-rule cities, among others, to enact or impose impact fees on land within their corporate boundaries and in their extraterritorial jurisdictions, and on persons with whom they have a water or sewer service contract, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development; and by the city Charter. The provisions of this article shall not be construed to limit the power of the city to adopt such article pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article.

(Code 2005, § 74-50; Ord. No. 2013-35, § 3, 10-7-2013)

Sec. 74-51. 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 impact fee per service unit that may be imposed on new development pursuant to this article, which determination occurs at the time specified in V.T.C.A., Local Government Code § 395.016.

Capital improvements plan means the water and wastewater capital improvements plan adopted by the city council, as may be amended from time to time, that identifies capital improvements or facility expansions for which impact fees may be assessed.

Impact fee has the meaning ascribed to it in V.T.C.A., Local Government Code § 395.001, and shall mean a charge or assessment to be imposed by the city upon new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. The term "impact fee" includes amortized charges, lump-sum charges, impact fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term "impact fee" does not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities, or streets, sidewalks, or curbs if the dedication or construction is required by other valid ordinances of this Code and is necessitated by and attributable to the new

development; lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or other pro rata fees for reimbursement of water or sewer mains or lines extended by the city.

New development means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of the use of land; any of which increases the number of service units.

Plat means the plan or map for the subdivision to be filed for record with the county clerk in the county in which the property is located. The term "plat" includes replat.

Property owner means the owner in fee of a tract or parcel of land upon which new development is to be located or his authorized representative.

Service area means the area within the corporate boundaries and extraterritorial jurisdiction to be served by the capital improvements or facilities expansions specified in the capital improvements plan.

Service unit means a standardized measure of consumption of water and wastewater systems capacity which is equal to the average flow rate for a single-family dwelling unit in the city.

(Code 2005, § 74-51; Ord. No. 2013-35, § 3, 10-7-2013)

Sec. 74-52. Impact fees for new construction.

(a) *Created.* There is hereby created an impact fee as provided by V.T.C.A., Local Government Code ch. 395.

(b) *New development to be charged.* Fees may be charged against new development in the city, including the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land; any of which increases the demand for additional services.

(c) *Use of funds.* The funds collected by the city from such fees shall be used only to pay the costs of constructing capital improvements or facility expansions, including and 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) and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant, not an employee of the city, preparing or updating the capital improvement plan on which fees are based. Funds may also be used for the payment of principal and interest on bonds, notes or other obligations issued by or on behalf of the city to finance the cost of such improvements. The funds may not be used for construction of any improvements not identified in the plan; to repair, operate or maintain existing or new capital improvements; to upgrade, update, expand or replace capital improvements serving existing development in order to meet stricter safety, efficiency, environmental or regulatory standards or to better serve existing developments; to pay administrative and operating costs of the city; or to pay for the cost of preparing the land use assumptions or the capital improvements plan if performed by municipal employees.

(d) *Fees.* The fees to be charged are per service unit single-family connection as set by resolution and printed in Appendix D to this Code.

Meter Size and Type		*Service Units*
1"	Simple	1
1 1/2"	Simple	2
1 1/2"	Turbine	2

2"	Simple	3
2"	Compound	3
2"	Turbine	4
3"	Compound	6
3"	Turbine	10
4"	Compound	10
4"	Turbine	17
6"	Compound	20
8"	Compound	32
6"	Turbine	37
10"	Compound	46
8"	Turbine	64
10"	Turbine	100
12"	Turbine	132

A one-inch meter is the smallest acceptable meter. In any situation where a meter smaller than one inch is installed, the one-inch fee will be charged.

(e) *Assessment and payment of impact fees.* The impact fee imposed by this section shall be assessed and collected in full at the time of issuance of the building permit for the service units or at the time the water meter is installed, whichever occurs first, if the lot or tract was platted prior to June 20, 1987. For land platted after June 20, 1987, the impact fees shall be assessed at the time of recordation of the final plat and collected in full at the time of issuance of the building permit for the service units or at the time the water meter is installed, whichever occurs first. Once the fee is assessed and collected, additional impact fees or increases in fees may not be assessed and collected against the lot or tract unless the number of service units to be developed on the lot or tract increases. In such event, the city may increase the assessment and collection of fees to fund new capital improvement in the amount attributable to the additional service units.

(f) *Exemptions.* Impact fees may be assessed but shall not be collected in areas where services are not currently available unless:

(1) The city and the developer enter into a contract for the construction or financing of necessary facilities, which agreement contains provision for crediting such contributions against impact fees or for reimbursement from fees paid by other new developments using the facilities.

(2) The city elects to collect fees and commence construction of necessary facilities within two years and provide services within five years.

(3) The owner voluntarily requests the city to reserve capacity to serve future development and the city and the owner enter into a written agreement regarding the reserve capacity.

(g) *Deposit of fees.* All funds collected under this section shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansions within the service area for which the fee was adopted. All interest earned in the accounts shall be considered funds of the account.

(h) *Refunds.* Impact fees must be refunded to the record owner of the property with statutory interest under the following circumstances:

(1) On request of the owner of property on which an impact fee was paid, if services are available and the city denies service, or if the city fails to commence construction of new facilities to serve the development or fails to complete such facilities within five years of the time the fee is collected.

(2) If the funds collected are not spent for earmarked facilities within ten years from the date of collection.

(3) Upon completion of the capital improvements for which the fee was collected, the city must recalculate the impact fee based on actual project costs and if the fee collected exceeds the amount paid for the improvements by more than ten percent, the difference must be refunded to the property owner.

(i) *Administrative remedies.* If the city does not perform a duty imposed by V.T.C.A., Local Government Code ch. 395, any person who has paid an impact fee or an owner of land upon which an impact fee has been paid shall present a written request to the city council stating the nature of any unperformed duty on the part of the city and request that it 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. This subsection shall not apply to matters subject to appeal.

(j) *Appeals.* Appeals may be made as follows:

(1) The property owner or applicant for new development may appeal the following decisions to the city council:

a. The applicability of an impact fee to the development;

b. The amount of the impact fee due;

c. The availability or the amount of an offset or credit;

d. The application of an offset or credit against an impact fee due; and

e. The amount of the refund due, if any.

(2) 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 applicable fee schedule or the guidelines established for determining offsets and credits.

(3) The appellant must file a notice of appeal with the city secretary within 30 days following the decision for which the appeal is made. 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 or tap purchase may be processed while the appeal is pending. No person shall have any right to appeal for relief to any court in regard to any matter covered by this article until after such person has exhausted the appeal procedure provided for in this section.

(k) *Updates to plan and revision of fees.* The city shall review the land use assumptions and capital improvements plan for water and sewer facilities at least every five years, the first five-year period which shall commence from the date of adoption of the capital improvements plan referenced in this section herein as required by law. The city council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in V.T.C.A., Local Government Code ch. 395, or any successor statute, either update the fees or make a determination that no update is necessary.

(l) *Impact fees.* Impact fees established by this section 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 the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of the city's comprehensive plan, capital improvements plan, zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

(m) *Waiver of fees.* The city council may waive all or a portion of impact fees from proposed new commercial development due, upon written request by a developer or owner of commercial property subject to the ordinance, following a public hearing, upon finding that such waiver substantially furthers the city's goals of promoting economic development, as may be set forth in the city's goals, policies and regulations. In granting such waiver, the city council shall make findings relating to such purposes and shall take into consideration the extent to which other incentives and waivers have been granted the development pursuant to then existing laws and regulations.

(Code 2005, § 74-52; Ord. No. 2013-35, § 3, 10-7-2013)

Secs. 74-53--74-68. Reserved.

ARTICLE IV. TELECOMMUNICATIONS

Sec. 74-69. Taxation of telecommunication service.

(a) The application of the sales tax exemption provided for in V.T.C.A., Tax Code 321.210(a), is hereby repealed by the city as authorized by V.T.C.A., Tax Code 321.210(b) thereof.

(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 state legislature.

(Ord. No. 2017-24, § 3, 9-11-2017)

Chapters 75--77

RESERVED

Chapter 78

TELECOMMUNICATIONS

ARTICLE I. IN GENERAL

Secs. 78-1--78-18. Reserved.

ARTICLE II. USE OF RIGHTS-OF-WAY BY TELECOMMUNICATIONS PROVIDERS*

***State law reference—**Municipal management of public rights-of-way used by telecommunications providers, V.T.C.A., Local Government Code § 283.001 et seq.

Sec. 78-19. Purpose.

(a) *Protection of rights-of-way; neutrality*. The purpose of this article is to establish a competitively neutral policy for the use, by telecommunications providers, of the city's public rights-of-way, and to enable the city to:

(1) Minimize congestion, inconvenience, visual impact, costs, and other adverse effects which would likely result from the unregulated placement of telecommunications facilities within public rights-of-way;

(2) Require, to the extent permitted by law, that telecommunications providers pay fair and reasonable compensation for the use of public rights-of-way;

(3) Promote competition among telecommunications providers and encourage the universal availability of telecommunications services to all residents and businesses of the city;

(4) Conserve the limited physical capacity of such public rights-of-way held in public trust by the city;

(5) Ensure that telecommunications providers having facilities within the city comply with applicable ordinances, rules, and regulations of the city; and

(6) Ensure that the city fairly and responsibly preserves and protects public health, safety, and general welfare.

(b) *Services not regulated*. It is not the policy or intention of this article to prohibit, regulate, license, or franchise the provision of any service within the city, and no provision of this article shall be so construed. Any term or condition contained herein, or in any license ordinance adopted pursuant hereto, shall relate to the rights of a person to make use of the public rights-of-way, not in limitation of any right granted by the state public utility commission, the Federal Communications Commission, or their successors.

(c) *Existing franchise rights preserved*. This article shall not apply to a telecommunications provider operating within the city on the effective date of the ordinance from which this article is derived pursuant to a valid existing franchise ordinance; provided, however, upon the termination of any such franchise, the telecommunications provider to which it applies shall be subject to the provisions hereof in the same manner as any other telecommunications provider. Notwithstanding the foregoing, any telecommunications provider operating within the city on the effective date of the ordinance from which this article is derived pursuant to a valid franchise ordinance may, at such provider's option, apply for the issuance of a license hereunder and the early termination of such franchise. Such franchise shall be deemed terminated upon the effective date of such license. Nothing in this article shall be construed to diminish the right or ability of the city to require any other user of public rights-of-way to secure appropriate city authorization, including, without limitation, cable service providers.

(Code 1994, § 72-26; Code 2005, § 78-19; Ord. No. 99-32, § 2, 10-18-1999)

Sec. 78-20. 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:

Access line means a unit of measurement representing:

(1) Each switched transmission path of the transmission media within the public right-of-way extended to the end-user customer's premises network interface within the city that allows delivery services within the city;

(2) Each termination point or points of a nonswitched telephone or other circuit consisting of transmission media connecting specific locations identified by, and provided to, the end-user for delivery of nonswitched telecommunications services within the city; or

(3) Each loop provided to any person as an unbundled network element, pursuant to an agreement under section 252 of the Federal Telecommunications Act of 1996 (47 USC 252), used for the provision of telecommunications services. Interoffice transport and other transmission media that do not terminate at an end-user customer's network interface device are not access lines that would be separately identified and counted for assessing monthly line fees.

Applicant means a person who files an application with the city, pursuant to section 78-22, to obtain a license to use or place network facilities within the city's public rights-of-way, whether by means of the person's own facilities or by purchase or lease of one or more network facilities from another provider of telecommunications services.

Cable Act means the Cable Communications Policy Act of 1984, 47 USC 532 et seq., as amended.

Cable operator means a person providing or offering to provide "cable service" within the city as that term is defined in the Cable Act.

Cable service shall have the same meaning provided by the Cable Act.

City property means all real property owned by the city, other than public rights-of-way, as that term is defined herein, and all other properties held in a proprietary capacity by the city, which are not subject to right-of-way licensing as provided in this article.

Federal Communication Commission or *FCC* means the federal agency or its successor agency that is the regulatory authority over telecommunications providers.

License fee means the compensation payable to the city by a licensee for the use and occupancy of public rights-of-way.

License ordinance means an ordinance adopted pursuant to this article which grants to a telecommunications provider the authority and license to place, operate, and utilize its network facilities within the public rights-of-way of the city for the purpose of providing telecommunications services.

Licensee means a telecommunications provider that has been issued a license pursuant to a license ordinance.

Network facilities means conduits, ducts, manholes, vaults, tanks, towers, wave guides, optic fiber, microwave dishes, transmitters, antennas and antenna structures, radio equipment, and any associated converters, electrical lines, communications lines, transmission lines, cables, wires, amplifiers, switches, utility equipment, or other such object, device, facility, or appurtenance, including attachments and encasements therefor, whether underground or overhead, which are designed, installed and constructed within the public rights-of-way for the purpose of producing, receiving, amplifying, switching, transmitting, or distributing communication signals, whether

analog or digital, whether for voice, data, or other purposes, and whether by or through "wired" or "wireless" systems, to or from customers, subscribers or locations within the corporate limits of the city. The term "network facilities" does not include airwaves above a right-of-way. The term "network facilities" does not include such facilities to the extent that they are solely used to provide cable services.

Public right-of-way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement, or similar property in which the city holds a property interest (fee title, easement or otherwise) or over which the city exercises any rights of management or control, and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of network facilities. The term "public right-of-way" does not include the airwaves above a public right-of-way with regard to wireless telecommunications services.

Public Utility Commission of Texas or *PUC* means the state agency having jurisdiction over telecommunications providers.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the content of the information as sent and received.

Telecommunications provider or *provider* means a person who offers telecommunications services to customers through network facilities located in the public rights-of-way.

Telecommunications services means the provision of telecommunications provided through network facilities, excluding cable services, but which include, without limitation:

(1) Access lines provided to end-users or to other telecommunications companies for the purpose of voice, data, or non-cable video transmission;

(2) Nonswitched telephone circuits consisting of transmission media connecting specific locations identified by, and provided to, the end-user for delivery of nonswitched services within the city;

(3) Switched access lines for the distribution of voice, data, and non-cable video transmission; and

(4) Any other telecommunication services authorized by state or federal law.

Wired telecommunications service means telecommunications services provided through network facilities which transmit and receive sounds, pictures, or signals of any kind by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, and includes both one-way and two-way services.

Wireless telecommunications service means telecommunications services provided through network facilities which transmit and receive sounds, pictures, or signals of any kind by radio or microwave signals between the points of origin and reception of such transmission, and includes both one-way and two-way services.

(Code 1994, § 72-27; Code 2005, § 78-20; Ord. No. 99-32, § 3, 10-18-1999)

Sec. 78-21. Unauthorized use of public rights-of-way.

(a) *Authorization to use public rights-of-way required.* It shall be unlawful for any person to lay, construct, operate, offer for lease, or make available for any use whatsoever, any network facility across, along, over, above, or under any public right-of-way within the limits of the city, for any private or commercial purpose, unless the right to do so has been granted to such person pursuant to a license ordinance adopted by city council in accordance herewith.

(b) *Liability for fees*. Without limitation of other remedies available to the city, persons making use of the public rights-of-way of the city in violation of this article, or otherwise without valid consent of the city, shall be liable for all fees authorized by this article effective as of the date of inception of such use.

(Code 1994, § 72-28; Code 2005, § 78-21; Ord. No. 99-32, § 4, 10-18-1999)

Sec. 78-22. Public rights-of-way use license.

(a) *Application required; contents*. Any person proposing to place network facilities within public rights-of-way shall submit an application to the city. Applications may be filed in the office of the city secretary. An application shall describe in general terms all services the applicant will offer or provide, and shall outline the applicant's proposed network facilities, including a description of the physical characteristics of the network facilities proposed to be installed in the public rights-of-way. The city council may require the following information:

(1) The identity of the applicant and all affiliates of the applicant which may use in any manner the network facilities to provide telecommunications services within the city;

(2) A general description of the principal transmission medium that will be used by the applicant to offer or provide such telecommunications services;

(3) Preliminary engineering plans, specifications, and a network map of planned or projected new network facilities to be located within the city, all in sufficient detail to identify:

a. The location and route requested for the applicant's proposed network facilities;

b. The location of all known overhead and underground public utility, telecommunications, cable, water, sewer, drainage and other facilities in the public rights-of-way along the proposed route; and

c. The specific trees, structures, improvements, facilities, or obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate;

(4) If the applicant is proposing to install overhead facilities, evidence that surplus space is available, and, if existing utility poles are to be utilized, evidence that their use is authorized;

(5) If the applicant is proposing to install underground network facilities, evidence of whether surplus duct or conduit space is available, and, if existing ducts or conduits are to be utilized, evidence that their use is authorized;

(6) A preliminary construction schedule and completion dates;

(7) A preliminary traffic control plan;

(8) Information to establish that the applicant will obtain all other governmental approvals and permits prior to construction and operation of the network facilities and prior to offering or providing the telecommunications services;

(9) Whether the applicant intends to provide cable service or other video programming service, such as an open video system, as defined in the Cable Act, together with sufficient information to determine whether such service is subject to cable franchising under the Cable Act;

(10) A narrative description of the applicant's existing network facilities in the city that the applicant intends to use or lease;

(11) The area or areas of the city the applicant desires to serve and a schedule for build-out to the entire city, if any; and

(12) Such other and further information relating to the use of the public rights-of-way that may be reasonably requested by the city council.

(b) *Standards for approval*. In making its determinations regarding adoption of license ordinances, the city council shall consider the legal authority of the subject applicant to provide telecommunications services within the city, with due regard for applicable federal and state telecommunications laws, regulations, and policies.

(c) *License ordinance*. License ordinances adopted by city council shall be deemed to incorporate all provisions of this article. A license ordinance shall be deemed as authorization for the applicable licensee to use the public rights-of-way for the provision of telecommunications services. No network facility shall be located, or made use of, in any public right-of-way in a manner inconsistent with the provisions of this article and/or the license ordinance. No license ordinance shall be construed to grant access to "city property," as defined herein, unless specifically included therein. No licensee shall use a public right-of-way or allow any other person to use licensee's network facilities in a public right-of-way, except as provided in the applicable license ordinance. Notwithstanding the foregoing, a license ordinance shall not be required for a person engaging solely in the resale of a licensee's services or the provision of services by unbundled network elements obtained from a licensee, provided that the applicable license ordinance authorizes the network facilities involved and the person does not own or operate any network facilities in the public rights-of-way.

(d) *Conditions of license*. The issuance of any license pursuant to this section shall be subject to the following additional standards:

(1) *Interference with public use prohibited*. All licensees shall lay, construct, erect, operate, lease, maintain, repair, and replace their network facilities in such a manner as to not unreasonably interfere with the use of public rights-of-way, public streets and sidewalks, or other public or private ways.

(2) *Compliance with law*. Licensees are explicitly subject to the police powers of the city and the city's rights as a property owner under state and federal laws. All work done by licensees in connection with the construction, expansion, reconstruction, maintenance, or repair of its network facilities in public rights-of-way shall be subject to and governed by all applicable federal, state, and city rules, regulations, laws, and ordinances. The provisions of this section shall apply to all licensees and to any other person owning, operating, or in control of network facilities located within public rights-of-way.

(3) *Construction regulations*.

a. *Excavations*. All excavations and other construction in the public rights-of-way shall be performed in accordance with all applicable state, federal, and city regulations.

b. *Interference with use of property*. All construction within public rights-of-way shall be undertaken so as to minimize interference with the use of public and private property and in accordance with any lawful direction given by the city under the police and regulatory powers of the city.

c. *Construction permits*. Before commencing any work which involves the construction, installation, expansion, repair, removal, or maintenance of network facilities within a public right-of-way, a licensee shall apply for and obtain a construction permit therefor, provided, however, acquisition of construction permits shall not be required for any such work which does not involve the alteration or disturbance of the surface of the right-of-way. Each permit application shall include a written work description, including construction drawings, showing the network facilities' location (or proposed location) and the estimated depth of the network facilities (existing and

proposed) in the immediate area of the proposed new construction. Such drawings shall be reviewed by the city engineer and, if disapproved, returned with comments setting forth the reasons for such disapproval. Approvals shall not be unreasonably withheld or delayed. Except as otherwise specifically provided herein, licensees shall not commence any such work until applicable construction permits have been approved therefor. Upon completion of any such work, the licensee shall promptly restore the surface of the affected public right-of-way to a condition which equals or exceeds its condition prior to such construction. To such end, the licensee shall replace excavated areas with the same type of materials as those removed, unless alternate equivalent materials are approved by the city. Any excavated areas showing depressions within one year following such work shall be restored by the licensee. Licensees may excavate public rights-of-way only for the purpose of, and to the extent reasonably required for, the construction, installation, expansion, repair, removal, or maintenance of its network facilities. Review and approval by the city of construction permits as provided herein shall not constitute any representation or warranty regarding the sufficiency of design or construction of the network facilities.

d. *Emergency repairs; restoration of service*. Notwithstanding subsection (d)(3)c of this section, during emergency situations where, in the good faith judgment of a licensee, failure to act immediately could jeopardize public health, safety, or general welfare, or in situations where a repair is necessary to restore service to a customer, licensees may perform repairs to facilities within public rights-of-way which involve the alteration or disturbance of the surface of such public right-of-way, without prior notification to the city. In such cases, the licensee shall notify the director of public works for the city by the close of business on the next business day, stating the nature of such repairs and, if not completed, the length of time estimated to complete same. The licensee shall apply for the required approvals as soon as reasonably practicable, and any work performed that is not consistent with then applicable city standards shall be corrected upon notice thereof from the city.

e. *Routine maintenance*. Routine maintenance on network facilities located within public rights-of-way shall be conducted in a manner that is consistent with then-applicable city regulations governing such work, if any.

f. *Obstructions of traffic*. Any obstruction of vehicular or pedestrian traffic resulting from construction or repair activities of a licensee, other than for emergency repairs, shall require prior notification to the director of public works of the city. Any such work shall be performed in a manner calculated to cause the least inconvenience to the city and the public as is reasonably possible under the circumstances. When a licensee performs or causes to be performed any work over or across a public street or sidewalk, or so closely adjacent thereto as to create hazards for the public or itself, the licensee shall provide construction and maintenance signs and sufficient barricades and flagmen at such sites as are reasonably necessary to protect the public and the licensee's equipment and workers. The application of such traffic control devices shall be consistent with the standards and provisions of the latest addition of the state manual on uniform traffic control devices. Appropriate warning lights shall be used at all construction and maintenance zones where one or more traffic lanes are being obstructed during nighttime conditions.

g. *Closing of streets*. If a licensee's work requires the obstruction of any street for a period longer than 30 minutes, the closure shall be performed in a manner approved by the director of public works. The licensee shall not wholly close any public street, but shall at all times maintain a route of travel along and within any roadway that

is within a public right-of-way, provided that, in cases of an emergency, the director of public works may authorize the temporary closing of a public street or sidewalk to allow the licensee to complete such emergency repairs if, in the opinion of the director of public works, such closing is necessary to protect the safety of the general public.

h. *Construction drawings*. Within 120 days following completion of each segment of its network facilities, or within 120 days following any material alteration or modification thereto, each licensee shall supply the city with a complete set of construction drawings for that segment, or for the material alteration or modification thereof, unless the licensee certifies to the city, in writing, that such construction was completed in accordance with the construction plans filed pursuant to this subsection (d)(3), in which case such construction plans shall be marked accordingly by the city and filed as the "permanent construction drawings." For the purposes hereof, a material alteration or modification of a network facility shall be deemed to have occurred if such alteration or modification would render the existing construction drawings inaccurate and/or misleading regarding the location of a structural component thereof. Such drawings shall be of sufficient detail to allow the city to determine the location of the licensee's network facilities with reasonable accuracy. In lieu of print documents, a licensee may, upon advance reasonable request, provide such drawings and maps by other mediums, including electronic mediums, provided the city has the capability to access such information.

(4) *Conservation of public rights-of-way*.

a. To the extent the city may be authorized by state or federal law to do so, and to the extent reasonable under the circumstances then existing, the city may require a licensee to attach portions of their facilities to other facilities within the public rights-of-way owned and maintained by other persons. A licensee shall not be required to attach its facilities to the facilities of such other persons if it is shown that such licensee would be subjected thereby to increased risks of interruption to its service, to increased liability for accidents, or to unreasonable delays in construction or availability of service, or if the facilities of such other person are not of the character, design, or construction required by, or are not being maintained in accordance with, current practice, or are not available to the licensee on reasonable terms, including, without limitation, reasonable fees.

b. Insofar as is practical to do so, licensees shall use existing network facilities in the provision of their services; provided, however, nothing contained herein shall be construed as limiting a telecommunications provider from expanding its facilities to accommodate future growth and development. Licensees shall provide information to the city relating to the location and/or operation of their network facilities or services as may be reasonably necessary for municipal planning purposes.

(5) *Relocation or removal of facilities*.

a. A licensee may be required to lower, place underground, relocate, or remove any network facility within any public right-of-way, without cost to the city, if reasonably necessary, as determined by the city council, to abate a condition actually or potentially dangerous to public health or safety, or as may be reasonably necessary to accommodate the construction, repair, maintenance, removal, or installation of any city or other governmental entity's publicly funded project within the city in, upon, or under public rights-of-way, including, without limitation, street construction and widening, water, sanitary sewer, storm drains, streetlights, and traffic signal conduits, or any other public facilities in, upon, or under the public

rights-of-way. In the alternative, where the city council determines it to be feasible, a licensee may be allowed to pay the additional costs incurred for the design and/or construction of any such public works project in a manner that would avoid the necessity of relocation or removal of the network facilities. A licensee shall be provided the opportunity to collaborate in advance with the city and/or propose alternatives in order to minimize cost, better schedule the work, and accommodate suitable refinements and/or joint work with others.

b. In the event of any such requirement for lowering, placing underground, relocating, or removing network facilities as herein provided, the licensee shall complete same as soon as is reasonably practicable following written notice thereof by the city.

(6) *Timely completion*. If a licensee fails to either:

a. Commence or thereafter diligently prosecute any repair, refilling, lowering, relocation, removal, or other work required by the city; or

b. Diligently complete any work that disturbs a public right-of-way;

the city may cause the work to be done or completed at the expense of the licensee and may recover all such expense from the licensee, together with all costs and reasonable attorney's fees. Notwithstanding the foregoing, a licensee shall be entitled to notice and opportunity to cure during the cure period described and set forth in section 78-25(b), and shall not be liable for any costs under this section unless such licensee falls to timely complete during such cure period.

(7) *Abandonment of obsolete network facilities*. Licensees shall remove network facilities when such network facilities are obsolete, are no longer in service, and either create visual blight or create a nuisance to the public; provided, however, a licensee shall not be required to remove any network facility for which renovation or restoration is planned by a licensee, and which renovation or restoration is completed within a reasonable period of time following abandonment. Further, no network facility, or any material portion thereof, which is being utilized for telecommunications services shall be deemed to be abandoned. When permanent structures in public rights-of-way are removed or abandoned, the city shall be notified in writing of such removal or abandonment. The director of public works may direct such remedial measures as the director may determine are necessary for public safety and the integrity of public rights-of-way.

(8) *Bonding*. A licensee shall comply with all applicable regulations of the city relating to the provision of bonds or other security which may be required in connection with work in public rights-of-way.

(9) *Temporary rearrangement of aerial wires and cables*. Upon request, a licensee shall remove or raise or lower its aerial network facilities temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting same, excluding requests by the city. The licensee may require payment in advance. The licensee shall be given a reasonable amount of advance notice to provide for such rearrangement, but in no event shall such notice be required to exceed 30 days.

(10) *Tree trimming*. A licensee is authorized to trim trees upon and overhanging public rights-of-way to the extent reasonably necessary to prevent the branches thereof from coming in contact with the licensee's network facilities. At the option of the city, a licensee may be required to conduct tree trimming under the supervision and direction of the city through the city official to whom such duty has been or may be delegated.

(11) *Term*. The term of each license granted pursuant hereto shall be as set forth in the license ordinance, but shall not exceed five years.

(Code 1994, § 72-29; Code 2005, § 78-22; Ord. No. 99-32, § 5, 10-18-1999)

Sec. 78-23. Compensation; books and records.

(a) *Licensee fees for providers of wired telecommunications services*. Licensees using public rights-of-way for the provision of wired telecommunications services shall pay to the city a license fee that is calculated by applying a monthly charge for each access line owned, placed, operated, controlled or maintained by the licensee, during the month to which the licensee fee applies, for use by an end-user or for another provider that uses the licensee's services or network facilities for the provision of telecommunications services within the city. With regard to persons leasing, reselling, or otherwise using licensee's access lines, if the licensee does not have sufficient information to determine the appropriate access line type, and, thus, the appropriate fee rate to apply, then the higher line fee shall apply until such time as the person using the access lines provides to the licensee sufficient written information to determine the correct line fee. Notwithstanding the foregoing, a licensee shall not be liable for underpayment of license fees resulting from the licensee's reliance upon the written information provided by any such person using licensee's service or facilities for the provision of telecommunications services to end-user customers. The license fee payable to the city shall be the sum total of the monthly charges to be applied to access lines, on a calendar month basis, as set by resolution and printed in Appendix D to this Code.

(1) *Payment due dates; calculation report; access lines*. License fees shall be paid quarterly, with such payments due and payable on or before the 45th day following the end of the calendar quarter for which such payments apply. With every quarterly remittance, each licensee shall file a written report showing the number and type of access lines owned or placed and maintained by the licensee within the city that are activated for end-user customers and other telecommunications providers at month's end, for each of the three calendar months to which such remittance applies. Such report shall specifically identify access lines owned, placed, operated, controlled, or maintained by the licensee that are leased and/or used by persons who are not end-user customers. Such report shall show the number of access lines by category, to the extent known. The report shall be used solely for the purpose of verifying the number of the licensee's access lines serving premises within the city.

(2) *Exclusions for certain economically disadvantaged customers*. Lines terminating at customers' premises that are billed as "lifeline," "tel-assistance," or other services similarly discounted for the purpose of advancing universal service to the economically disadvantaged shall not be included in the count of access lines for which the license fee is calculated.

(3) *Leased network facilities*. Notwithstanding any other provision contained in this article to the contrary, a licensee shall not be required to include in its monthly count of, and shall not be required to remit a license fee to the city based on, access lines that are resold, leased, or otherwise provided to another person if the other person has furnished the licensee with adequate proof that the person will remit directly to the city a license fee based on those leased access lines.

(b) *License fees for providers of wireless telecommunications services*. Licensees using public rights-of-way for the provision of wireless telecommunications services shall pay to the city a license fee that is calculated by applying a monthly charge calculated in accordance with one of the following methods described in this section:

(1) *Per subscriber/customer method*. Licensees may elect to pay a license fee that is calculated by applying a monthly charge for each subscriber/customer within the city that use the licensee's services or network facilities for the provision of telecommunications services. A monthly charge shall be applied for each end-user subscriber/customer having a billing address within the city. The license fee payable to the city shall be the sum total of the monthly charges to be applied to each subscriber/customer, on a calendar month basis, as set by resolution and printed in Appendix D to this Code.

(2) *Gross revenue method*. If the license fee provided for in subsection (b)(1) of this section would result in a fee which exceeds four percent of the applicable licensee's gross revenues from subscribers/customers within the city, such licensee may pay a license fee which equals four percent of the gross revenues received by such licensee from subscribers/customers within the city. For the purposes hereof, the term "gross revenues" shall mean the gross dollar amounts received by the licensee for wireless telecommunications services provided to subscribers/customers with billing addresses in the city, but excluding:

a. The monthly charges collected pursuant to this section;

b. Local, state, or federal taxes collected by the licensee that have been billed to subscribers/customers and separately stated on bills therefor; and

c. Uncollectible revenues.

(3) *Facilities charge method*. A licensee providing wireless telecommunications services within the city, which does not occupy more than 500 linear feet, 200 square feet, or 100 cubic feet of the public rights-of-way for the location of its network facilities, may pay an annual license fee based on the actual network facilities located within such public rights-of-way. Such license fees shall be calculated in accordance with public right-of-way use fee schedules as may be adopted by the city council from time to time and in effect at the time the applicable license ordinance is adopted.

(4) *Payment due dates; calculation report*. License fees shall be paid quarterly, with such payments due and payable on or before the 45th day following the end of the calendar quarter for which such payments apply. With every quarterly remittance, each licensee shall file a written report showing the number of subscribers within the city that are served by the licensee, the gross revenues received by the licensee, or an inventory of network facilities in the city's public right-of-way, as applicable, for each of the three calendar months to which such remittance applies. Such report shall specifically identify any network facilities owned, operated, or maintained by the licensee that are leased and/or used by persons who are not end-users. Such report shall show the number of subscribers of such persons leasing or using such facilities, if any, to the extent known. The report shall be used solely for the purpose of verifying the license fee payable to the city, as herein provided.

(5) *Exclusions for certain economically disadvantaged customers*. Subscribers that are billed as "lifeline," "tel-assistance," or for other services similarly discounted for the purpose of advancing universal service to the economically disadvantaged shall not be included in the count of subscribers for which the license fee is calculated.

(6) *Leased network facilities*. Notwithstanding any other provision contained in this article to the contrary, a licensee shall not be required to include in its monthly count of subscribers, and shall not be required to remit a license fee to the city based on, subscribers that are served by network facilities resold, leased, or otherwise provided to another person for consideration if:

a. The other person is operating pursuant to a valid license under this article; and

b. The other person has furnished the licensee with adequate proof that the person intends to include its subscribers in its monthly count to the city, the person intends to remit to the city a license fee based on those subscribers, and the city has approved the arrangement.

(c) *License fees for providers not serving customers within the city*. Providers using network facilities within public rights-of-way, but which serve no customers within the city, other than itself, shall pay an annual license fee based on the facilities located within such public rights-of-way, which fees shall be commensurate with the fees paid by providers serving customers within the city. Such license fees shall be calculated in accordance with public right-of-way use fee schedules as may be adopted by the city council from time to time and in effect at the time the applicable license ordinance is adopted. This fee shall be due on or before July 15 of every year during the term of the license, prorated as applicable. A report shall be submitted with each annual payment showing the calculation of the payment, including necessary descriptions of the network facilities, as applicable.

(d) *Reporting requirements*. The forms required to be filed pursuant to this subsection and subsections (a)(1) and (b)(1) of this section shall be accompanied by a written statement, executed by a duly authorized officer or representative of the licensee, certifying that the information contained in such report is true and correct, to the best of the officer or representative's knowledge and belief, after due inquiry. A copy of the completed forms and the accompanying certified statements shall be filed with the city secretary. Such forms shall be deemed confidential to the extent permitted by law. Upon written request, licensees shall verify the information contained in such forms and, upon reasonable advance notice, all noncustomer specific records and other documents required for verification shall be subject to inspection by the city, expressly excluding any records, documents, or other writings the disclosure of which is prohibited by state or federal law.

(e) *Late payments; default*. Payments received after their due date shall incur interest at the rate of ten percent per annum, compounded daily. Notwithstanding the foregoing, failure of a licensee to make a full payment within 30 days following the due date shall constitute an event of default.

(f) *Circumvention of license fees prohibited*. Licensees shall not circumvent payment of license fees by bartering, by transferring rights, or by other means that result in undercounting the number of access lines, or subscribers, as applicable, as required herein. Capacity or services may be bartered if the imputed access lines, or subscribers, are reported in accordance with this article.

(g) *Uncollectibles*. A licensee shall not be obligated to pay the city for any access lines, or subscribers, for which revenues remain uncollectible.

(h) *No release*. No acceptance by the city of any payment by a licensee shall be construed as a release of, or an accord or satisfaction of, any claim that the city might have for further or additional sums payable under the terms of this article or a license ordinance, or for any other performance or obligation of the licensee.

(i) *No other fees*. License fees paid hereunder shall be in lieu of any permit, license, approval, inspection, or other similar fee or charge, including, but not limited to, all general business license fees customarily assessed by the city for the use of the public rights-of-way against persons operating businesses similar to that of licensees. Further, such license fees shall constitute full compensation to the city for all of a licensee's network facilities located within the public rights-of-way, including interoffice transport and other transmission media that do not

terminate at an end-user customer's network interface device, even though those types of network facilities are not used in the calculation of a license fee.

(j) *Records*. Licensees shall retain and maintain all records, accounts, and financial and operating reports necessary to establish compliance with the terms of this article, for a period of not less than five years.

(Code 1994, § 72-30; Code 2005, § 78-23; Ord. No. 99-32, § 6, 10-18-1999)

Sec. 78-24. Indemnification and insurance.

(a) *Indemnity*.

(1) To the extent permitted by law, each licensee shall indemnify and hold the city harmless as follows: The licensee shall promptly defend, indemnify, and hold the city harmless from and against all damages, costs, losses, or expenses:

a. For the repair, replacement, or restoration of city's property, equipment, materials, structures, and facilities which are damaged, destroyed, or found to be defective solely as a result of the licensee's acts or omissions; and

b. From and against any and all claims, demands, suits, causes of action, and judgments for:

1. Damage to or loss of the property of any person (including, but not limited to, the licensee, its agents, officers, employees, and subcontractors, city, its agents, officers, and employees, and third parties); and/or

2. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the agents, officers, and employees of the licensee, licensee's subcontractors, city's officers, agents, and employees, and third parties), arising out of, incident to, concerning, or resulting from the negligent or willful acts or omissions of the licensee, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this article.

(2) This indemnity provision is intended to include liability arising from the city's alleged negligence, but only to the extent such liability arises out of a claim or claims that the city was negligent in granting this license, in regulating the conduct of licensee under this license, or in failing to prevent licensee from acting in a negligent or wrongful manner. The indemnity provision set forth herein is:

a. Solely for the benefit of the city and the licensee and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity;

b. To the extent permitted by law, any payments made to, or on behalf of, the city under the provisions of this section are subject to the rights granted to licensees under V.T.C.A., Utilities Code §§ 54.204--54.206; and

c. Subject to the continued applicability of the provisions of V.T.C.A., Utilities Code §§ 54.204--54.206, as set forth in subsection (a)(1)b of this section, the provisions of the indemnity shall survive the expiration of this article.

(3) If the authority granted by this article is terminated or is not renewed, and the licensee does not remove its network facilities from the public rights-of-way, the licensee shall continue to indemnify and hold harmless the city pursuant to this section as long as its facilities are located in the public rights-of-way, and for said purpose, this section shall survive this license ordinance.

(b) *Insurance*. Licensees shall procure and maintain, during the term of their licenses, the following insurance coverage, and the respective policies thereof shall cover all risks related to the

licensee's use and occupancy of the public rights-of-way and all other risks associated with their license:

(1) Description of insurance coverage and limits shall be set by resolution and printed in Appendix D to this Code.

(2) Other insurance related requirements.

a. The city shall be named as an additional insured, by endorsement, on all applicable insurance policies;

b. Applicable insurance policies shall each be endorsed with a waiver of subrogation in favor of the city;

c. Insurers shall have a rating of B + or better and a financial size of Class VI or better, according to the current year's Best's rating. Each insurer shall be responsible and reputable, must have financial capability consistent with the risks covered, and shall be subject to approval by the city council with regard to conformance with these requirements, which approval shall not be unreasonably withheld;

d. Deductible limits on insurance policies and/or self-insured retention exceeding $50,000.00 shall require approval by the city council;

e. Certificates of insurance shall state that the city shall be notified a minimum of 30 days prior to the insurers' action, in the event of cancellation, nonrenewal, or reduction in policy limits, regarding any policy required hereby;

f. Full limits of insurance required in subsection (b)(1) of this section shall be available for claims arising out of a licensee's applicable license ordinance;

g. Certificates of insurance shall be provided by a licensee to the city prior to the installation, construction, or operation of any network facilities within public rights-of-way; provided, however, any licensee lawfully operating network facilities within public rights-of-way at the time of adoption of such licensee's applicable license ordinance shall provide such certificates of insurance within 30 days following the effective date of such license ordinance. Any failure of the city to request such documentation shall not be construed as a waiver of the insurance requirements specified herein;

h. The city shall be entitled, upon request and without incurring expense, to review the insurance policies (or certified copies thereof), including endorsements thereto, which relate to the insurance requirements specified herein, and, at its discretion, to require proof of payment for policy premiums;

i. The city shall not be responsible for paying the cost of insurance coverage required herein;

j. Notice of any actual or potential claim and/or litigation that would affect insurance coverage required herein shall be provided to the city in a timely manner. In the alternative, a policy may, by endorsement, establish a policy aggregate to establish compliance with the requirements set forth herein;

k. Each insurance policy required herein shall be primary insurance to any other insurance available to the city with respect to any claims arising hereunder;

l. A licensee shall either require its contractors to maintain the same insurance coverage and limits thereof as specified herein or such coverage on the licensee's contractors shall be provided by the licensee; and

m. A licensee may elect to self-insure to provide the insurance coverage required hereunder, subject to the restrictions set forth in this subsection, provided that the licensee submits to the city copies of its certificates of self-insurance from the state department of insurance and of its most recent audited financial statements, showing self-insurance reserves or other assets sufficient to pay judgments equal to the limits set forth above. A licensee shall also provide to the city documentation evidencing its process for reviewing and paying claims. The city shall be protected by a licensee's self-insurance to the same extent as an additional insured on a policy issued by an insurance company. If, during the term of a license granted hereunder, a licensee's self-insurance program ceases, or a licensee's assets or reserves are no longer sufficient to comply with the above coverage requirements, the licensee shall immediately notify the city of such lapse of coverage, and the licensee shall obtain commercial insurance in accordance with the above requirements within 30 days following such notice.

(c) *No right of recovery*. Insurers shall have no right of recovery against the city, it being the intention hereby that the insurance policies required herein shall protect licensees and the city, and shall be primary coverage for all losses covered by such policies. Such policies shall provide that the issuing company waives all right of recovery by way of subrogation or assignment against the city in connection with any damage covered thereby. Companies issuing such policies shall have no recourse against the city for payment of any premiums or assessments, same being at the sole risk of the licensees.

(d) *Lapse of coverage an event of default*. A licensee shall continuously and without interruption maintain in full force and effect the required insurance coverage and limits set forth in this section. Failure to maintain such insurance shall constitute an event of default and the city, at its option, may terminate any license granted pursuant hereto, in accordance with the provisions of section 78-25.

(Code 1994, § 72-31; Code 2005, § 78-24; Ord. No. 99-32, § 7, 10-18-1999)

Sec. 78-25. Default and termination.

(a) *Events of default*. The occurrence of any of the following shall constitute an event of default by a licensee:

(1) Failure of a licensee to comply with any material term, condition, or provision of this article or the license ordinance applicable to such licensee;

(2) Any intentional false statement or misrepresentation as to a material fact by an applicant;

(3) A licensee's loss of or failure to obtain licenses, permits, and certifications lawfully required by any statute, ordinance, rule, or regulation of any regulatory body having jurisdiction over the licensee's operations and to pay all fees associated therewith;

(4) An act or omission of a licensee constituting a knowing or intentional evasion of payment of any fee payable hereunder.

(b) *Cure period*. If a licensee continues to violate or fail to comply with a material term or provision of this article for a period of 30 days following notification in writing by the city to cure such specific alleged violation or failure to comply, then the city may follow the procedures set forth herein to declare that the licensee has terminated all rights and privileges consented to pursuant to this article and the licensee's license ordinance; provided, however, if a licensee is alleged to be in violation of any material provision of this article, other than the payment of a fee due hereunder, and if the licensee commences efforts to cure such alleged violation within 30 days following receipt of written notice thereof and shall thereafter prosecute such curative efforts with

reasonable diligence until such curative efforts are completed, then such alleged violation shall cease to exist and no further action shall be taken at that time.

(Code 1994, § 72-32; Code 2005, § 78-25; Ord. No. 99-32, § 8, 10-18-1999)

Sec. 78-26. Transfer of authority.

(a) *Prohibition*. Any right, privilege, and license granted pursuant hereto may not be assigned, in whole or in part, without the prior consent of the city expressed by resolution or ordinance, and then only under such conditions as may therein be prescribed, except as otherwise provided in subsection (d) of this section. No such consent by the city shall be unreasonably withheld, conditioned, or delayed. No assignment in law or otherwise shall be effective until the assignee has filed with the city an instrument, duly executed, reciting the fact of such assignment, accepting the terms hereof and of the license ordinance, and agreeing to comply with all the provisions thereof. A mortgage or other pledge of assets in a bona fide lending transaction shall not be considered an assignment of a license for the purposes of this article.

(b) *Process*. Upon receipt of a request for consent to an assignment, the city shall diligently investigate the request in a timely manner and place the request on the city council agenda at the earliest practicable time. The city council shall proceed to act on the request within a reasonable period of time.

(c) *Scope of review*. In reviewing a request for assignment, the city may, to the extent permitted by law, inquire into the legal, technical, and financial qualifications of the prospective assignee, and the licensee shall assist the city in so inquiring. The city may condition said assignment upon such terms and conditions as it deems reasonably necessary, provided its approval and any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective assignee, as well as the licensee's compliance with the terms hereof.

(d) *Assignments not requiring approval*. Notwithstanding any other provision contained in this article to the contrary, the prior approval of the city shall not be required for any transfer of ownership or control of a provider's business, except that the provider shall maintain with the city current point of contact information. However, no such assignment shall be effective until the licensee shall have given written notice thereof to the city.

(e) *Release*. Upon receiving the city's consent to an assignment, or, in the event of an assignment qualifying under subsection (d) of this section, upon giving notice under subsection (d) of this section, a licensee shall be relieved of all conditions, obligations, and liabilities arising or which might arise hereunder that are assumed by the assignee.

(Code 1994, § 72-33; Code 2005, § 78-26; Ord. No. 99-32, § 9, 10-18-1999)

Sec. 78-27. Miscellaneous provisions.

(a) *Work by others; construction by abutting owners; alterations to conform with public improvements*.

(1) The city reserves the right to lay and permit to be laid sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done any underground and overhead work, and any attachment, restructuring, or changes in aerial facilities that may be deemed necessary or proper by the city in, across, along, over, or under any public right-of-way occupied by providers, and to change any curb or sidewalk or the grade of any street. In permitting such work to be done, the city shall not be liable to providers for any damages not directly caused by the misconduct or gross negligence of the city; provided, however, nothing herein shall relieve any other person or entity, including any contractor, subcontractor, or agent, from liability for damage to a licensee's facilities.

(2) If during a license term the city authorizes abutting landowners to occupy space over, under, or across the surface of any public right-of-way, such grant to an abutting landowner shall be subject to tile rights herein granted to a licensee. In the event that the city shall close or abandon any public right-of-way, which contains any portion of a licensee's network facilities, any conveyance of land contained in such closed or abandoned public right-of-way shall be subject to the rights of a licensee hereunder and under the licensee's license ordinance.

(3) Providers shall be liable for the acts or omissions of any person used by such providers when such person is involved directly or indirectly in the construction and installation of such providers' network facilities to the same extent as if the acts or omissions of such person were the acts or omissions of the provider.

(b) *Annexation and disannexation*. Within 30 days following the date of passage of any action affecting the annexation of any property to, or the disannexation of any property from, the city's corporate boundaries, the city shall furnish licensees written notice of the action and an accurate map of the city's corporate boundaries showing, if available, street names and number details. For the purpose of compensating the city under this article, a licensee shall start including or excluding access lines or subscribers, as applicable, within the affected area in the licensee's count of access lines or subscribers, as applicable, on the effective date designated by the comptroller of public accounts of the state for the imposition of state local sales and use taxes; but in no case less than 30 days following the date the licensee is notified by the city of the annexation or disannexation.

(c) *Confidential records*. Upon the notification by a licensee to the city of the confidential nature of any information, report, document, or writing, the city shall maintain the confidentiality of such information, report, document, or writing to the extent permitted by law. Upon receipt by the city of requests for the licensee's confidential information, report, document, or writing, the city shall notify the licensee of the request, in writing. Unless otherwise approved in writing by the applicable licensee, the city shall request an attorney general's opinion before disclosing any confidential information, report, document, or writing, and will furnish the licensee with copies of such requests.

(d) *Abandonment of public rights-of-way*. If the city conveys, closes, abandons, or releases its interest in or authority over any public right-of-way containing network facilities installed or operated pursuant to a license ordinance, any such conveyance, closure, abandonment, or release shall be subject to the rights of the licensee under the license ordinance.

(e) *Right to audit*. The city reserves the right to inspect a provider's business records to the extent necessary to ensure compliance with the access line and/or subscriber reporting requirements of this article. Any such review shall be commenced within 90 days following the filing of a certified report of access lines and/or subscribers. If any such inspection discovers an underpayment due to the city that exceeds five percent of the total amount paid for any quarterly reporting period, then the licensee shall promptly reimburse the city for the actual and reasonable cost of such audit. The provider shall also pay the city all actual amounts of the underpayments as determined by the audit, plus interest as hereinabove provided.

(f) *Force majeure*. Other than for the failure to pay amounts due and payable under this article, a licensee shall not be in default or be subject to sanction under any provision of this article when its performance is prevented by force majeure. Force majeure shall mean an event caused by strike or other labor problem, embargo, epidemic, act of God, fire, flood, adverse weather conditions, or other major environmental disturbance, act of military authority, or war or civil disorder, provided that such causes are beyond the reasonable control and without the willful act, fault, failure, or negligence of the licensee. Performance is not excused under this section following the end of the applicable event of force majeure.

(g) *Controlling law*. This article, and any license issued hereunder, shall be governed by the laws of the state and the United States, and venue for any action hereunder shall be in the county.

(h) *Effective date of license*. Any license granted hereunder shall be effective upon the adoption of the applicable license ordinance and the filing of necessary certificates of insurance as otherwise required herein.

(Code 1994, § 72-34; Code 2005, § 78-27; Ord. No. 99-32, § 10, 10-18-1999)

Chapters 79--81

RESERVED

Chapter 82

TRAFFIC AND VEHICLES*

***State law reference**—V.T.C.A., Transportation Code ch. 1 et seq.; powers of local authorities regarding regulation of traffic, V.T.C.A., Transportation Code § 542.202; limitations on local authorities, V.T.C.A., Transportation Code § 542.203; municipal authority to regulate by traffic control devices, V.T.C.A., Transportation Code § 542.202(a)(1).

ARTICLE I. IN GENERAL

Sec. 82-1. Unreasonable acceleration.

(a) *Definitions*. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Unreasonable acceleration means:

(1) Acceleration which spins a tire or tires resulting in the breaking of traction between a tire or tires and the street surface; and

(2) Acceleration which is accomplished in such a manner as to cause:

a. A squealing or screeching sound by the tires;

b. The throwing of sand or gravel by the tires of the vehicle; or

c. Both.

(b) *Evidence.* The squealing or screeching sounds emitted by the tires, or the throwing of sand or gravel by the tires, or both, shall constitute prima facie evidence of such unreasonable acceleration for purposes of this chapter.

(Code 1974, § 17-1; Code 1994, § 74-1; Code 2005, § 82-1; Ord. No. 2004-23, § 2, 11-1-2004)

State law reference—Reckless driving, V.T.C.A., Transportation Code § 545.401.

Sec. 82-2. Traffic control devices; authority to install.

The city traffic director shall place and maintain official traffic control devices when required under the traffic ordinances of this city to make effective the provisions of such ordinances, and may place and maintain such additional official traffic control devices when he deems such necessary to regulate, warn or guide traffic under the traffic ordinances of this city and state law.

(Code 1994, § 74-2; Code 2005, § 82-2; Ord. No. 300, § 9, 1-9-1978)

State law reference—Power of local authorities to regulate traffic by traffic-control devices, V.T.C.A., Transportation Code § 542.202(a)(1).

Sec. 82-3. Manual and specifications.

All traffic control signs, signals, and devices shall conform to the manual and specifications approved by the state. All signs and signals required in this chapter for a particular purpose shall be uniform as to type and location throughout the city. All traffic control devices erected and not inconsistent with the provisions of state law and this article shall be official traffic control devices.

(Code 1994, § 74-3; Code 2005, § 82-3; Ord. No. 300, § 10, 1-9-1978)

State law reference—Adoption of sign manual, V.T.C.A., Transportation Code § 544.001.

Sec. 82-4. Presumptions of legality.

(a) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this article, such devices shall be presumed to have been placed by the

official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(b) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(Code 1994, § 74-4; Code 2005, § 82-4; Ord. No. 300, § 11, 1-9-1978)

Sec. 82-5. Obedience to traffic chapter required.

It is unlawful for any person to do any act forbidden or fail to perform any act required in this chapter.

(Code 1994, § 74-5; Code 2005, § 82-5; Ord. No. 300, § 6, 1-9-1978)

Sec. 82-6. Emergency and experimental regulations.

(a) The city traffic director is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.

(b) The city traffic director may test traffic control devices under actual conditions of traffic.

(Code 1994, § 74-6; Code 2005, § 82-6; Ord. No. 300, § 3, 1-9-1978)

Sec. 82-7. Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(Code 1994, § 74-7; Code 2005, § 82-7; Ord. No. 300, § 7, 1-9-1978)

Sec. 82-8. Authority of police and fire department officials.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all traffic laws of this city and of the state.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic there or in the immediate vicinity thereof.

(Code 1994, § 74-8; Code 2005, § 82-8; Ord. No. 300, § 5, 1-9-1978)

Sec. 82-9. City traffic director.

(a) The office of city traffic director is hereby established. The city traffic director shall be appointed by the city council and shall exercise the powers and duties with respect to traffic as provided in this chapter.

(b) The city traffic director shall have the general responsibility and authority to determine the installation and proper timing and maintenance of traffic control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigations of traffic conditions, to plan the operation of traffic on the streets and highways of this city, and to cooperate with other officials in the development of ways and means to improve

traffic conditions, and to carry out the additional powers and duties imposed by the ordinances of the city.

(c) Wherever in this chapter the authority is given to the city traffic director to do acts as he deems or, in his opinion, are advisable, necessary, or desirable, such acts shall be based on his observations and studies, according to generally used and accepted traffic control principles or techniques.

(d) Traffic innovations and experiments, however, are not to be inhibited hereby.

(e) Every traffic control device, signal, sign, marker, or marking erected under the direction of the city traffic director shall be presumed to have been installed pursuant to his observations and studies, based on generally used and accepted traffic control principles or techniques.

(f) Any responsibility or authority imposed or conferred on the city traffic director by the provisions of this article may be performed by the city traffic director or by those officers, employees, or agents of the city working under his supervision and control and designated by him to perform the same.

(Code 1994, § 74-9; Code 2005, § 82-8; Ord. No. 300, §§ 1, 2, 4, 1-9-1978)

Secs. 82-10--82-36. Reserved.

ARTICLE II. STOPPING, STANDING, PARKING*

***State law reference**—Municipal authority to regulate standing and parking, V.T.C.A., Transportation Code § 542.202(a)(2); stopping, standing and parking generally, V.T.C.A., Transportation Code § 545.251 et seq.

DIVISION 1. GENERALLY

Sec. 82-37. Authority of city traffic director.

(a) The city traffic director is hereby authorized, on the basis of an engineering and traffic investigation, to prohibit or limit stopping, standing or parking of vehicles at all times or during specified hours.

(b) No prohibition, regulation or limitation relating to stopping, standing or parking imposed under this article or any other ordinance of this city shall be effective unless official traffic control devices are erected and in place at the time of an alleged offense and it shall be the duty of the city traffic director to erect and maintain such devices.

(c) The city traffic director is hereby authorized to determine the location of loading zones and passenger loading zones and shall place and maintain appropriate signs indicating such zones and stating the hours when the regulations regarding to such loading zones are applicable.

(Code 1974, § 17-25; Code 1994, § 74-31; Code 2005, § 82-37; Ord. No. 300, §§ 21, 24, 1-9-1978)

Sec. 82-38. Standing in loading zones.

(a) No person shall stop, stand or park a vehicle for any purpose other than for the expeditious loading or unloading of passengers in any place marked as a passenger loading zone during hours when the regulations applicable to such loading zones are effective, and then only for a period not to exceed three minutes.

(b) No person shall stop, stand, or park a vehicle for any purpose other than for the expeditious unloading and delivery or pickup and loading of property in any place marked as a loading zone during hours when the regulations applicable to such zones are in effect. In no case shall the stop for loading or unloading of property exceed 30 minutes.

(c) The driver of a vehicle may stop temporarily at a loading zone for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any vehicle which is waiting to enter such zone to load or unload property.

(Code 1974, § 17-28; Code 1994, § 74-32; Code 2005, § 82-38; Ord. No. 300, §§ 22, 23, 1-9-1978)

Sec. 82-39. Alleys.

No person shall park a vehicle within an alley in such a manner or in such a position as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway or entrance to any abutting property.

(Code 1974, § 17-30; Code 1994, § 74-33; Code 2005, § 82-39)

Sec. 82-40. Bus stands.

No vehicle other than a bus shall be parked in the place so designated as a bus loading zone.

(Code 1974, § 17-31; Code 1994, § 74-34; Code 2005, § 82-40)

Sec. 82-41. Time limit parking.

Except on Sundays or holidays, it shall be unlawful to park any vehicle for a longer consecutive period of time than that designated between the hours of 8:00 a.m. and 6:00 p.m. in any area designated as a limited parking area and so marked.

(Code 1974, § 17-32; Code 1994, § 74-35; Code 2005, § 82-41)

Sec. 82-42. On private property.

It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

(Code 1974, § 17-33; Code 1994, § 74-36; Code 2005, § 82-42)

Sec. 82-43. Restricted and no parking areas.

The parking regulations for specific streets is on file in the city secretary's office.

(Code 1974, § 17-34; Code 1994, § 74-37; Code 2005, § 82-43)

Sec. 82-44. Signs or markings indicating angle parking.

The city traffic director shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal-aid or state highway within this city unless the state commission on highways and public transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

(Ord. No. 300, § 20, 1-9-1978; Code 1994, § 74-38; Code 2005, § 82-44)

Secs. 82-45--82-61. Reserved.

DIVISION 2. FIRE LANES

Sec. 82-62. When required.

No building or any type of construction for occupancy shall be constructed in such a manner that any part of the structure is more than 150 feet from a public street or highway; provided, however, that such structure may be erected at a greater distance if the owner designates, constructs and maintains a fire lane or access easement having a minimum width of 20 feet and a minimum height clearance of 20 feet terminating within 100 feet of the furthest point of such

structure; provided, further, however, that no fire lane shall be required for any single-family or duplex building.

(Code 1974, § 7-13(a); Code 1994, § 74-51; Code 2005, § 82-62)

Sec. 82-63. Specifications.

Any fire lane more than 100 feet in length shall either connect at each end to a dedicated street or be provided with a turnaround having a minimum radius of 50 feet, excluding cul-de-sac medians, when measured from curb to curb. All fire lanes shall be maintained and kept in a state of good repair at all times by the owner, manager or person in charge of the premises, and the city shall never be responsible for the maintenance thereof. The fire marshal or his authorized representative is hereby authorized to designate adequate fire lanes and/or turnarounds to any building when deemed necessary for fire department access in the event of fire in such building.

(Code 1974, § 7-13(b); Code 1994, § 74-52; Code 2005, § 82-63)

Sec. 82-64. Markings.

(a) *Signs*.

(1) The owner, manager, or person in charge of any building, for which fire lanes have been approved by the fire marshal or his authorized representative, shall post and maintain appropriate signs in conspicuous places along such fire lanes stating: "No Parking--Fire Lane." Such signs shall be 12 inches wide and 18 inches high, with a companion sign 12 inches wide and six inches high stating: "Tow-Away Zone."

(2) Any "No Parking--Fire Lane" or "Tow-Away Zone" sign shall be painted on a white background with symbols, letters and borders in red, using not less than two-inch lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches above finished grade. Signs shall be spaced no more than 30 feet apart. Signs may be installed on buildings, walls or fences, as approved by the fire marshal.

(3) Where the placement of such signs is not applicable or when, in the opinion of the fire marshal or his representative, such signs would cause a burden on the management, curb markings or striping may be used.

(b) *Curb markings/striping*. Any "No Parking--Fire Lane" or "Tow-Away Zone" curb markings or striping shall be painted on a red background, with symbols and letters in white. Such lettering shall be a minimum of four inches in height at 30-foot intervals on the red background markings along both sides of the fire lanes. Such lettering shall state: "No Parking--Fire Lane--Tow-Away Zone." Fire lanes marked on pavement surfaces shall be marked by lines of red traffic paint 12 inches in width to show the boundaries of the lane. Where a curb is available, the striping shall be in the vertical face of the curb.

(Code 1994, § 74-53; Code 2005, § 82-64; Ord. No. 2002-19, § 22, 11-18-2002)

Sec. 82-65. Destruction of fire lane or tow-away sign.

It is hereby declared unlawful for any person, without lawful authority, to attempt to or in fact alter, destroy, deface, injure, knock down, or remove any sign designating a fire lane or tow-away zone erected under the terms of this division.

(Code 1974, § 7-13(d); Code 1994, § 74-54; Code 2005, § 82-65)

Sec. 82-66. Abandonment or closing.

No owner, manager or person in charge of any premises served by a required fire lane shall abandon or close such fire lane without written permission of the city fire marshal.

(Code 1974, § 7-13(e); Code 1994, § 74-55; Code 2005, § 82-66)

Sec. 82-67. Parking prohibited.

(a) No person shall park, place, allow, permit, or cause to be parked, placed or remain unattended, any motor vehicle, trailer, boat or similar obstruction within or upon an area designated as a fire lane and marked by an appropriate marking.

(b) Any motor vehicle, trailer, boat or similar obstruction found parked or unoccupied within an area designated as a fire lane as required by this division is hereby declared a nuisance per se and any such motor vehicle, trailer, boat, or similar obstruction parked or unoccupied in such manner as to obstruct, in whole or in part, any such fire lane shall be prima facie evidence that the registered owner unlawfully parked, placed or permitted to be parked or placed such obstruction within a fire lane.

(c) The records of the state highway department or the county highway license department showing the name of the person to whom the state highway license or boat or trailer license is issued shall constitute prima facie evidence of ownership by the named person.

(Code 1974, § 7-13(f); Code 1994, § 74-56; Code 2005, § 82-67)

Sec. 82-68. Modifications to requirements of division.

The fire marshal shall have the power to modify any of the provisions of this division upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this division, provided that the spirit of this division shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the fire marshal thereon shall be entered upon the records of the city and a signed copy shall be furnished to the applicant.

(Code 1974, § 7-13(g); Code 1994, § 74-57; Code 2005, § 82-68)

Sec. 82-69. Enforcement; issuance of citations; impoundment of obstructions.

(a) The fire marshal or any member of the fire marshal's office designated by the fire marshal, or the chief of police or any member of the police department designated by the chief of police, is hereby authorized to issue parking citations for any motor vehicle, trailer, boat or similar obstruction found parked or unattended in or upon a designated fire lane and may have such obstruction removed by towing it away. Such vehicle or obstruction may be redeemed by payment of the towing and storage charges.

(b) No parking citation shall be voided nor shall the violator be relieved of any penalty assessed by a judge of the municipal court for any provision of this division by the redemption of the obstruction from the storage facility.

(Code 1974, § 7-13(h); Code 1994, § 74-58; Code 2005, § 82-69)

Sec. 82-70. Submission of plats; duties of contractors.

(a) Prior to the issuance of a building permit, plats with designated fire lanes shall be submitted to the building inspection department for review by the fire marshal, who then will approve or disapprove the designated fire lanes and indicate the needed signs and pavement markings. One of these plats shall be retained by the fire marshal.

(b) The contractor or person in charge of any construction site for commercial, industrial, mercantile, educational, institutional, assembly, hotel, multifamily dwelling, or mobile home park occupancies shall provide and maintain during construction an approved all-weather fire lane, not less than 20 feet in width, as shown on approved plats. Final paving of such fire lane shall be completed prior to the issuance of any certificate of occupancy.

(Code 1974, § 7-13(i); Code 1994, § 74-59; Code 2005, § 82-70)

Sec. 82-71. Penalties for violation of division.

Any person who shall violate any provisions of this division or fail to comply therewith, or who shall violate 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, or any certificate or permit issued 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, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than $20.00 nor more than $200.00.

(Code 1974, § 7-13(j); Code 1994, § 74-60; Code 2005, § 82-71)

Secs. 82-72--82-100. Reserved.

ARTICLE III. SPECIFIC STREET REGULATIONS*

***State law reference**—Municipalities may alter speed limits subject to state law requirements, V.T.C.A., Transportation Code § 542.202(a)(12); municipal authority to designate yield intersections, V.T.C.A., Transportation Code § 542.202(a)(8); local authority to regulate or prohibit turning, V.T.C.A., Transportation Code § 542.202(a)(7); municipal regulation of loads and equipment, V.T.C.A., Transportation Code § 621.303.

Sec. 82-101. Speed regulations; state laws applicable.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within this city except where the city traffic director, upon the basis of an engineering and traffic investigation, determines that other speed limits shall be applicable on specified streets or in certain areas, in which event any speed in excess of the limits specified by the city traffic director, when signs are in place giving notice of the speed limit, shall be prima facie evidence that the speed is not reasonable and prudent and that it is unlawful.

(Code 1994, § 74-96; Code 2005, § 82-101; Ord. No. 300, § 14, 1-9-1978)

Sec. 82-102. Authority of city traffic director.

(a) Upon the basis of an engineering and traffic investigation, the city traffic director may decrease maximum speed limits at intersections and outside urban districts and he may increase limits within urban districts.

(b) Upon the basis of an engineering and traffic investigation, the city traffic director shall determine the maximum speed limits on arterial streets.

(c) Speed limits established pursuant to this section shall be applicable at all times, unless specific times of application are indicated by official traffic control devices.

(d) The list of speed limits for specific streets is on file in the city secretary's office.

(Code 1994, § 74-97; Code 2005, § 82-102; Ord. No. 300, § 15, 1-9-1978)

Sec. 82-103. Stop and yield intersections.

(a) The city traffic director is hereby authorized to erect and maintain stop signs, yield signs or other official traffic control devices to designate through streets or to designate intersections or other roadway junctions.

(b) The lists of street intersections designated as stop or yield intersections for which signs have been erected are on file in the city secretary's office.

(Code 1974, §§ 17-6, 17-8; Code 1994, § 74-98; Code 2005, § 82-103; Ord. No. 300, § 18, 1-9-1978)

Sec. 82-104. Gross weight limits.

The city traffic director is hereby authorized, on the basis of an engineering and traffic investigation, to erect and maintain traffic control devices on any streets or parts of streets to impose gross weight limits.

(Code 1994, § 74-99; Code 2005, § 82-104; Ord. No. 300, § 25, 1-9-1978)

Sec. 82-105. Excluding specified classes of traffic.

The city traffic director is hereby authorized, on the basis of an engineering and traffic investigation, to determine and designate those heavily traveled streets upon which shall be prohibited any class or kind of traffic which is found to be incompatible with the normal safe movement of traffic and shall erect appropriate traffic control devices.

(Code 1994, § 74-100; Code 2005, § 82-105; Ord. No. 300, § 26, 1-9-1978)

Sec. 82-106. Restrictive direction of movement on one-way streets and alleys.

The city traffic director is hereby authorized to:

(1) Determine and designate one-way streets or alleys and shall place and maintain official traffic control devices giving notice thereof. No such designation shall be effective unless such devices are in place.

(2) Determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period of the day and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The city traffic director may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the centerline of the roadway.

(Code 1994, § 74-101; Code 2005, § 82-106; Ord. No. 300, § 17, 1-9-1978)

Sec. 82-107. Crosswalks, safety zones and traffic lanes.

The city traffic director is hereby 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 traffic lanes upon the roadway of any street or highway where in his opinion a regular alignment of traffic is necessary.

(Code 1994, § 74-102; Code 2005, § 82-107; Ord. No. 300, § 12, 1-9-1978)

Sec. 82-108. U-turns and other turning restrictions.

The city traffic director is authorized to:

(1) Place official traffic control devices within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than prescribed by law.

(2) Determine those intersections at which drivers of vehicles shall not make a right turn, left turn or U-turn, and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event such hours shall be plainly indicated on the signs or they may be removed when such turns are permitted.

(Code 1994, § 74-103; Code 2005, § 82-108; Ord. No. 300, § 16, 1-9-1978)

Sec. 82-109. Use of coasters, roller skates and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar vehicle shall go upon any roadway except while crossing a street in a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable.

(Code 1994, § 74-104; Code 2005, § 82-109; Ord. No. 300, § 8, 1-9-1978)

Sec. 82-110. No wake on flooded street.

(a) It shall be unlawful for any person to operate a motor vehicle or a boat on a flooded street, highway, alley, or parking lot, whether publicly or privately owned, in such manner as to increase the level of floodwaters to a level which causes, or could be reasonably expected to cause, damage to other vehicles, adjacent real property, or improvements located on adjacent real property.

(b) It shall be an affirmative defense to a violation under subsection (a) of this section that the operator of the motor vehicle or boat was operating same during a bona fide public emergency necessitating the use of speed otherwise in violation hereof.

(Code 1994, § 74-105; Code 2005, § 82-110; Ord. No. 2002-20, §§ 1--3, 11-18-2002)

Chapters 83--85

RESERVED

Chapter 86

UTILITIES*

***Charter reference**—Utilities, art. IX; accounts of utilities, § 9.11; franchises, art. IX; sales of utility services, § 9.12.

State law reference—Municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code § 13.042(a); municipal utility systems, general powers, V.T.C.A., Local Government Code ch. 551 et seq.

ARTICLE I. IN GENERAL

Sec. 86-1. Security deposits.

(a) Security deposits for water, sewer and/or garbage collection service shall be as set by resolution and printed in Appendix D to this Code.

(b) Funds submitted to the city as a security deposit shall be returned to the customer after the expiration of two years from the date such deposit is made, provided that such customer seeking a refund has not been delinquent on a payment for water, sewer and/or garbage collection for the preceding two-year period. The city may waive the requirement of a security deposit for new customers as set forth in this section upon receipt of evidence that such customer has not been delinquent in the payment of water, sewer and/or garbage collection services during such preceding two-year period (or 12 preceding utility billing periods) to the suppliers of such services. In addition, new customers with prior history with the city within the preceding five years who were not delinquent on payments for water, sewer and/or garbage collection services may also have such security deposits waived.

(Code 1974, § 18-12; Code 1994, § 78-1; Code 2005, § 86-1; Ord. No. 91-9, § 2, 2-25-1991; Ord. No. 2013-43, § 3, 12-2-2013)

Sec. 86-2. Service fees.

The following fees are hereby established against applicable persons to reimburse the city for administrative costs incurred as a result of the occurrences described:

(1) *Returned checks*. A fee set by resolution and printed in Appendix D to this Code shall be assessed for each returned check.

(2) *Disconnects and reconnects*. A fee set by resolution and printed in Appendix D to this Code shall be assessed for each disconnect/reconnect of water and/or sewer service or discontinuance/restoration of garbage collection service unless the disconnect/discontinuance was performed at no fault of the customer.

(3) *Late payment*. An administrative fee equal to ten percent of the unpaid balance shall be assessed each month for delinquent water, sewer and garbage collection service fees.

(4) *Unauthorized connection or tampering*. A service fee shall be assessed for the consumption of, or damages resulting from, unauthorized connection, tampering or theft of water, sewer or garbage collection services in the amount set by resolution and printed in Appendix D to this Code plus the actual costs of the services consumed and/or actual costs of repair of damages.

(5) *Meter testing*. Each customer shall be entitled to one free meter test each calendar year. For all meter tests beyond once each calendar year, a service fee equal to the actual charge billed by the vendor for such test shall be assessed.

(6) *Same day service connection.* A same day service connection fee is set by resolution and printed in Appendix D to this Code and represents the administrative and operating cost to the city for same day processing a new utility application, generating and

completing service initiation. The fee will be assessed and paid in full upon customer request through completion of an application for utility service.

(7) *Meter replacement.* A meter replacement fee is set by resolution and printed in Appendix D to this Code and represents the administrative and operating cost to the city for customer requested replacement of a utility meter.

(8) *Utility meter removal.* A meter removal/pulled meter service fee is set by resolution and printed in Appendix D to this Code and represents the administrative and operating cost to the city for removal of a utility meter due to nonpayment of two or more consecutive billed consumption periods.

(9) *Proof of residency.* A printing service fee is set by resolution and printed in Appendix D to this Code and represents the administrative and operating cost to the city for providing customer requested proof of residency documentation.

(Code 1994, § 78-2; Code 2005, § 86-2; Ord. No. 91-9, § 3, 2-25-1991; Ord. No. 2013-43, § 4, 12-2-2013)

Sec. 86-3. Discontinuance of service for nonpayment.

The city manager may direct the discontinuance of water, sewer and/or garbage collection service to any customer of the city upon the failure of any such customer to remit to the city timely payment for water, sewer or garbage collection services, or to timely remit to the city a service fee assessed pursuant to this chapter. In no event shall any such service be discontinued until notice of intent to do so is served upon such customer at least ten days prior to the date such service is proposed to be discontinued. Such notice shall contain the words "termination notice" or similar language prominently displayed on the notice. The notice shall apprise the customer of an officer or employee of the city to whom direct inquiries regarding payment may be made, or to whom such customer may present evidence of error in the justification for the proposed discontinuance of service. The office address and telephone number of such officer or employee shall be included in the notice. Such notice shall be deemed given by depositing such notice as first class matter in the United States Mail, postage prepaid; by hand delivery; or by posting such notice at a conspicuous location on the property where the service is provided. Notwithstanding the foregoing, if delivery of such notice is by mail and the tenth day following the depositing of notice falls on a Saturday, Sunday, or legal state or national holiday, such service shall not be discontinued until the first working day following such Saturday, Sunday, or legal state or national holiday.

(Code 1994, § 78-3; Code 2005, § 86-3; Ord. No. 91-9, § 1, 2-25-1991)

Sec. 86-4. Water and sewer service fees for nonresident customers.

(a) The rates for water and sewer system services to be charged to customers located outside the city's corporate limits shall be 1 1/2 times that charged to customers located inside the city's corporate limits. Notwithstanding the foregoing, customers located outside the city's corporate limits shall be billed at the same rates as those charged customers inside the city's corporate limits if:

(1) Such services are provided pursuant to an interlocal cooperation agreement and the interlocal cooperation agreement does not provide for different rates; or

(2) Such services are provided pursuant to an agreement entered into prior to the effective date of the ordinance from which this section is derived.

Such out of city customer rates shall be calculated by multiplying the base rates heretofore approved by city council, as set forth in Appendix D to this Code, by 1.5.

(b) The rates charged to nonresident water and sewer customers set forth in subsection (a) of this section shall not apply to entities engaged in nonprofit enterprises as that term is defined in 26 USC 501, as amended, which can demonstrate satisfactory proof of such nonprofit status. Such

nonprofit customers will be charged at the standard rate charged to resident water and sewer customers.

(c) The fee schedule approved and adopted in subsection (a) of this section shall apply to all billings for water and sewer service beginning after the July 1, 2002.

(Code 1994, § 78-4; Code 2005, § 86-4; Res. No. R2002-24, §§ 1--3, 7-1-2002)

Sec. 86-5. Connection to public water system.

(a) Every lot, piece or parcel of real property, home, building or structure where a main or lateral of the city's public water system is laid and maintained within 200 feet of the boundary line, in the case of real property, or structure, in the case of improvements, shall be connected to the public water system of the city. After such connection is established, the utilization of any private well, pump or other means used for the extraction of groundwater to the property or improvements shall be discontinued, and no connections may be established for the utilization of any private well, pump or other means used for the extraction of groundwater to the property or improvements.

(b) Voluntary disconnection from the public water system of the city is not allowed.

(c) The rules and regulations outlined in subsection (a) of this section shall not apply to municipal water wells owned and operated by the city, nor shall such rules and regulations apply to any private well, pump or other groundwater extractive equipment determined to be in operation on or before October 1, 2012.

(d) Nothing contained herein shall be construed so as to constitute an exemption or waiver of the rules and regulations, if any, which may be imposed by the Harris-Galveston Subsidence District.

(Code 2005, § 86-5; Ord. No. 2012-23, § 2, 10-1-2012)

Secs. 86-6--86-26. Reserved.

ARTICLE II. WATER*

***State law reference**—Water systems in home rule municipalities, V.T.C.A., Local Government Code § 552.017.

DIVISION 1. GENERALLY

Sec. 86-27. Succession to powers of water control and improvement or supply district; statute adopted.

The provisions of V.T.C.A., Local Government Code §§ 43.074, 43.075 and 43.081 are adopted and made applicable to the city and to all water control and improvement districts and fresh water supply districts situated in whole or in part within the city.

(Code 1974, § 18-1; Code 1994, § 78-31; Code 2005, § 86-27)

State law reference—Abolition of water-related special district created wholly in municipality, V.T.C.A., Local Government Code § 43.074; abolition of, or division of functions of certain water-related special districts, V.T.C.A., Local Government Code § 43.075; continuation of certain water boards, V.T.C.A., Local Government Code § 43.081.

Sec. 86-28. Ratification of prior ordinances.

All ordinances adopted by the city council making or having the effect of making the provisions of V.T.C.A., Local Government Code §§ 43.074, 43.075 and 43.081, applicable to the city are hereby ratified and approved.

(Code 1974, § 18-2; Code 1994, § 78-31; Code 2005, § 86-28)

Sec. 86-29. Drought contingency plan.

(a) *Declaration of policy, purpose and intent.* In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city hereby adopts the following drought contingency plan (the "plan"), same being a set of regulations and restrictions governing the delivery and consumption of water.

(b) *Public involvement.* Opportunity for public input into preparation of the plan was provided by the city. Notice was placed in the local newspaper and on the city's website notifying the public of the plan's availability for public review and comment.

(c) *Public education.* The city will periodically provide the public with information about the plan, including information about the conditions under which each stage of the plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of letters, utility bill inserts, newsletter, website, press releases and/or media, as methods to be used to provide information to the public about the plan.

(d) *Coordination with regional planning groups.* The service area of the city is located within the Houston Region (H) and the city has provided a copy of this plan to the Houston Region (H).

(e) *Authorization.* The city manager, or his/her designee, is hereby authorized and directed to implement the applicable provisions of this plan upon his determination that such implementation is necessary to protect public health, safety, and welfare. The city manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as directed in this plan.

(f) *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.

(g) *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:

Aesthetic water use means water use for ornamental or decorative purposes, such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use means water use that is integral to the operations of commercial and nonprofit establishments and governmental entities, such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person, company, or organization using water supplied by the city.

Domestic water use means water use for personal needs, or for household or sanitary purposes, such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even-numbered addresses means street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6 or 8, and locations without addresses.

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 of medians.

Nonessential water use means water uses that are not essential or required for the protection of the public, health, safety, and welfare, including, but not limited to:

(1) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except as otherwise provided for under this plan;

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

(3) Use of water to wash down any sidewalk, walkway, driveway, parking lot, tennis court, or other hard-surfaced area;

(4) Use of water to wash down buildings or structures for purposes other than for immediate fire protection, or for flushing gutters or permitting water to run or accumulate in any gutter or street;

(5) Use of water to fill, refill or add to any indoor or outdoor swimming pool or Jacuzzi-type pool;

(6) Use of water in a fountain or pond for aesthetic or scenic purposes, except where necessary to support aquatic life;

(7) Failure to repair a controllable leak; and

(8) Use of water from hydrants for construction purposes or any other purpose other than firefighting.

Odd-numbered addresses means street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7 or 9.

(h) *Triggering criteria for initiation and termination of drought response stages; responses.* The city manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis, determine when conditions warrant initiation or termination of each stage of the plan, and implement necessary action as set forth herein. Public notification of an initiation, or determination of drought response stages, shall be by a means described in subsection (c) of this section.

(1) *Stage 1--Mild water shortage conditions.*

a. *Requirements for initiation*. Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses as defined in this section, when one or a combination of the following criteria occurs:

1. Condition 1: When total daily water demand equals or exceeds 65 percent of the current available system operating capacity for three consecutive days.

2. Condition 2: When total daily water demand equals or exceeds 81 percent of the current available system operating capacity on a single day.

b. *Requirements for termination*. Stage 1 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

c. *Response*. The goal of the mild water shortage condition response is to achieve a voluntary 20 percent reduction in total water use and/or daily water demand.

d. *City supply management measures*. Measures to be implemented directly by the city to manage limited water supplies and/or reduce water demand: Reduce or discontinue flushing of water mains.

e. *Voluntary water use restrictions*.

1. Water customers are requested to voluntarily limit the irrigation of landscaped areas to even-numbered days of the month for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and odd-numbered days of the month for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of 12:00 midnight and 10:00 a.m., and 8:00 p.m. to 12:00 midnight, on designated watering days.
2. All operations of the city shall adhere to water use restrictions prescribed in subsection (h)(1)e.1 of this section, except that medians irrigation shall be every other day.
3. Water customers are requested to practice water conservation and to minimize or discontinue water use for nonessential purposes (subsection (g) of this section, definitions).

(2) *Stage 2--Severe water shortage conditions.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions on certain nonessential water usages for Stage 2 of this plan when one or a combination of the following criteria occurs:

1. Condition 1: When total daily water demand equals or exceeds 80 percent of the available system operating capacity for three consecutive days.
2. Condition 2: When total daily water demand equals or exceeds 90 percent of the current available system operating capacity on a single day.

b. *Requirements for termination.* Stage 2 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven consecutive days.

c. *Response.* The goal of the severe water shortage condition is to achieve an 18 percent reduction in total water use and/or daily water demand and activate Stage 1.

d. *City supply management measures.* Measures to be implemented directly by the city to manage limited water supplies and/or reduce water demand:

1. Reduce or discontinue flushing of water mains;
2. Reduce or discontinue irrigation of public landscaped areas.

e. Mandatory water use restrictions. It shall be unlawful for any person to cause or permit the use of water in violation of the following water use restrictions during a severe water shortage condition:

1. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to even-numbered days with no watering on Sundays for any reason, for customers with street addresses ending in an even number (0, 2, 4, 6 or 8), and on odd-numbered days of the month, with no watering on Sundays for any reason, for water customers with street addresses ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m., and between 8:00 p.m. and 12:00 midnight, on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a faucet filled bucket or watering can of five gallons or less, or by a drip irrigation system.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket

or hand-held hose equipped with a positive shutoff nozzle. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public are contingent upon frequent vehicle cleaning, such as garbage trucks and vehicles used to transport food and perishables.

3. Use of water to fill, refill or add to any indoor or outdoor swimming pool, wading pool, or Jacuzzi type pool is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight.

4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountain or pond is equipped with a recirculating system.

5. Use of water from hydrants shall be limited to firefighting activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under a special permit from the city.

6. Use of water for irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m., and between 8:00 p.m. and 12:00 midnight. However, if a golf course utilizes a water source other than the potable water provided by the city, the facility shall not be subject to these regulations. The use of gray water, recycled or nonpotable water is permissible.

7. The following uses of water are defined as nonessential and are prohibited:

   (i) Washing down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;

   (ii) Washing down buildings or structures for purposes other than immediate fire protection;

   (iii) Use of water for dust control;

   (iv) Flushing of gutter or permitting water to run or accumulate in any gutter or street;

   (v) Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak;

   (vi) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this plan;

   (vii) Washing any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;

   (viii) Filling or refilling or adding to any indoor or outdoor swimming pool, wading pool or Jacuzzi-type pool;

   (ix) Filling or refilling or adding to any fountain or pond for aesthetic or scenic purposes, except where necessary to support aquatic life; and

   (x) Except as otherwise specifically authorized herein, use of water from hydrants for construction purposes or any other purposes other than firefighting.

(3) *Stage 3--Emergency water shortage conditions.*

a. *Requirements for initiation.* Customers shall be required to comply with the requirements and restrictions for Stage 3 of this plan when the city manager, or his/her designee, determines that a water supply emergency exists based on:

1. Condition 1: Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
2. Condition 2: Natural or manmade contamination of the water supply source; or
3. Condition 3: When total daily water demand equals or exceeds 91 percent, and/or the system pressure falls below 25 pounds per square inch (25 psi).

b. *Requirements of termination.* Stage 3 of the plan may be rescinded when all of the conditions listed as triggering events have ceased to exist.

c. *Response.* The goal of the emergency water shortage condition response is to achieve a minimum of 35 percent reduction in total water use and/or daily water demand.

d. *City supply management measures.* Measures to be implemented directly by the city to managed limited water supplies and/or reduce water demand:

1. Reduced or discontinued flushing of water mains; and
2. Utilize alternative water sources and/or alternative delivery mechanisms with prior approval of the executive director of the state commission on environmental quality as appropriate (e.g., interconnection with another system, temporary use of a nonmunicipal water supply, or use of reclaimed water for nonpotable use).

e. *Mandatory water use restrictions.* All requirements of Stages 1 and 2 shall remain in effect during Stage 3 except:

1. Irrigation of landscaped areas is absolutely prohibited;
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited;
3. Use of water to wash down any sidewalk, walkway, driveway, parking lot, tennis court, or other hard surface areas is absolutely prohibited;
4. Flushing of gutters or permitting water to run or accumulate in any gutter or street is absolutely prohibited;
5. Washing down any building or structure for purposes other than immediate fire protection is absolutely prohibited.

(i) *Penalty for violation; enforcement.*

(1) It shall be unlawful for any person to cause or permit the use of potable water from a public water supply system within the city in a manner contrary to any provision of this plan, or in an amount in excess of that permitted by a 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.

(2) First time offenders shall be issued written warning. Any person who violates this plan after they have received one written warning shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than $1.00, nor more than $200.00. Each day that one or more of the provisions in this plan is violated shall constitute a separate offense; second, 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, set by resolution and printed in Appendix D to this Code, and any other cost incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager, or his/her designee, that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(j) *Variances.*

(1) *Authorized.* 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 a variance would cause an emergency condition to adversely affect the health, sanitation or fire protection for the public or the person requesting such variance, and if one or more of the following conditions are met:

a. Compliance with this plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the plan is in effect; or

b. Alternative methods can be implemented which will achieve the same level of reduction in water use.

(2) *Petition.* Persons requesting an exemption from the provisions of this section shall file a 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, and shall include the following:

a. Name, address and primary e-mail address of the petitioner;

b. Purpose of water use;

c. Specific provisions of the plan from which the petitioner is requesting relief;

d. 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 section;

e. Description of relief requested;

f. Period of time for which the variance is sought;

g. 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;

h. Other pertinent information.

(3) *Conditions.* Variances granted hereunder shall be subject to the following conditions, unless waived by the city manager, or his/her designee:

a. Variances shall include a timetable for compliance;

b. Variances shall expire when the plan is no longer in effect, unless the petitioner has failed to meet specific requirements;

c. No variance shall be retroactive or otherwise justify any violation of this plan that occurred prior to the issuance of the variance.

(Code 1994, § 78-33; Code 2005, § 86-29; Ord. No. 98-19, § 2, 7-6-1998; Ord. No. 2006-07, §§ 1--10, 3-20-2006)

Sec. 86-30. Water conservation plan.

(a) *Declaration of policy, purpose, and intent.*

(1) In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire

protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the city adopts the following water conservation plan.

(2) Water uses regulated or prohibited under the water conservation plan (the plan) are considered to be nonessential 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 referenced in section 86-34.

(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:

Aesthetic water use means water use for ornamental or decorative purposes, such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use means water use which is integral to the operations of commercial and nonprofit establishments and governmental entities, such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation means those practices, techniques, and technologies that reduce the consumption of water, reduce the loss and/or waste of water, improve the efficiency of the use of water, and increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer means any person, company, or organization using water supplied by the city.

Domestic water use means water use for personal needs or for household or sanitary purposes, such as drinking, cooking, bathing, heating, cooling, sanitation, or for cleaning a residence, business, industry, or institution.

Drought contingency plan means a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies. A drought contingency plan may be a separate document identified as such or may be contained within another water management document.

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.

Municipal per capita water use means the sum total of water diverted into a water supply system for residential, commercial, and public and institutional uses divided by actual population served.

Municipal use means the use of potable water within or outside a municipality and its environs, whether supplied by a person, privately owned utility, political subdivision, or other entity, as well as the use of sewage effluent for certain purposes, including the use of treated water for domestic purposes, fighting fires, sprinkling streets, flushing sewers and drains, watering parks and parkways, and recreational purposes, including public and private swimming pools, the use of potable water in industrial and commercial enterprises supplied by a municipal distribution system without special construction to meet its demands, and for the watering of lawns and family gardens.

Municipal use in gallons per capita per day means the total average daily amount of water diverted or pumped for treatment for potable use by a public water supply system. The calculation is made by dividing the water diverted or pumped for treatment for potable use by population served. Indirect reuse volumes shall be credited against total diversion volumes for the purpose of calculating gallons per capita per day for targets and goals.

Nonessential water use means water uses that are neither 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 plan.

(2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle.

(3) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas.

(4) Use of water to wash down buildings or structures for purposes other than immediate fire protection.

(5) Flushing gutters or permitting water to run or accumulate in any gutter or street.

(6) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools.

(7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life.

(8) Failure to repair a controllable leak within a reasonable period after having been given notice directing the repair of such leak.

(9) Use of water from hydrants for construction purposes or any other purposes other than firefighting.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Public water supplier means an individual or entity that supplies water to the public for human consumption.

Regional water planning group means a group established by the state water development board to prepare a regional water plan under V.T.C.A., Water Code § 16.053.

Retail public water supplier means an individual or entity that for compensation supplies water to the public for human consumption. The term "retail public water supplier" does not include an individual or entity that supplies water to itself or its employees or tenants when that water is not resold to or used by others.

Reuse means the authorized use for one or more beneficial purposes of use of water that remains unconsumed after the water is used for the original purpose of use and before that water is either disposed of or discharged or otherwise allowed to flow into a watercourse, lake, or other body of state-owned water.

Water conservation plan means a strategy or combination of strategies for reducing the volume of water withdrawn from a water supply source, for reducing the loss or waste of water, for maintaining or improving the efficiency in the use of water, for increasing the recycling and reuse of water, and for preventing the pollution of water. A water conservation plan may be a separate document identified as such or may be contained within another water management document.

Wholesale public water supplier means an individual or entity that for compensation supplies water to another for resale to the public for human consumption. The term "wholesale public water supplier" does not include an individual or entity that supplies water to itself or its employees or tenants as an incident of that employee service or tenancy when that water is not resold to or used

by others, or an individual or entity that conveys water to another individual or entity, but does not own the right to the water which is conveyed, whether or not for a delivery fee.

(c) *Review and modification of plan.* This water conservation plan will be reviewed and updated, as appropriate, based on an assessment of previous five-year and ten-year targets and any other new or updated information. The city will review and update the next revision of its water conservation plan not later than May 1, 2019, and every five years after that date to coincide with the regional water planning group.

(d) *Authorization, implementation and enforcement.* The city manager, or his/her designee, is hereby authorized and directed to implement and enforce this water conservation plan. This section formally adopts this plan, outlines the implementation and enforcement authority of the city manager, and provides for the most recent update.

(e) *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. This plan was adopted and placed into effect by the city council in accordance with this section.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-31. Same--Utility profile.

The city utility profile is on file in the office of the city secretary.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-32. Same--Goals and objectives.

(a) *Specification of conservation goals and objectives.*

(1) In accordance with 30 Tex. Admin. Code Part 1, Chapter 288, Subchapter A, Rule 288.2(a)(1)(C), the following objectives and five- and ten-year targets have been established. The objectives of this water conservation plan are as follows:

a. To promote water conservation.

b. To determine and control unaccounted water usage.

c. To reduce the loss and waste of water.

d. To maintain an accurate record of water usage.

(2) Goals of the program (five-year target and goals).

a. Beginning in the year 2014, the city goals are to achieve a municipal use of 133 gallons per capita per day for the first five years (2014 through 2019) and also achieve a municipal use water loss goal of three gallons per capita per day for the period 2014 through 2019.

b. Beginning in the year 2014, the city goals are to control the water loss not to exceed 11 percent for the first five years (2014 through 2019).

(3) Goals of the program (ten-year target and goals).

a. Beginning in the year 2014, the city goals are to achieve a municipal use of 130 gallons per capita per day for the next ten years (2014 through 2024) and also achieve a municipal use water loss goal of an additional three gallons per capita per day for the period (2014 through 2024).

b. Beginning in the year 2014, the city goals are to manage the water loss to 12 percent or less for the next ten years (2014 through 2024).

(4) The projected baseline to reduce per capita per day consumption is 136 gpcd. To accomplish these goals, the city will utilize the programs and policies in this plan, such as accurate metering devices, universal metering, meter testing and repair, periodic meter replacement, control of unaccounted water, public education, non-promotional water rates, and leak detection and repair.

(b) *Metering.*

(1) The city meters 100 percent of the connections to the distribution system, including municipal uses. Meters range in size from three-fourths-inch to six inches. All meters are designed to provide accurate flows to within plus/minus five percent.

(2) The city practices a meter change-out program whereby meters are changed out every ten to 15 years. Additionally, larger meters are field tested and repaired for accuracy. Generally, the city does not use repaired meters in the system.

(3) The city provides treated water through two surface water pumping stations. No water is diverted from the metered source of supply. The metering is accomplished through turbine meters and certified calibration is performed tri-annually.

(c) *Determination and control of unaccounted-for water.*

(1) The city makes a bi-monthly accounting of water delivery efficiencies. At the end of each period, the public works department calculates the difference between water pumped to the system and water sold through the meters. This calculation is reduced to a percentage of water losses. This is maintained and reviewed on an annual basis.

(2) Leaks are reported by any municipal employee as well as the general public.

(3) The water plants are monitored daily and system pressure is checked carefully. Any unusual pressure level may be indicative of sizeable leaks and reported to the maintenance section as soon as noted.

(4) All leaks are repaired the same day or as soon as practicable.

(d) *Public education.*

(1) The city will support programs to educate the public regarding water conservation activities that support its goals. This includes educating the general public on the need for and practices of water conservation through public service announcements and other means. This information will be provided by means of public notice, website, press releases and mailings.

(2) Through the Focus on Friendswood Newsletter and the annual consumer customer report, the city will provide water conservation tips to its customers. In addition, the city sponsors local schools by providing book covers that include water conservation information.

(e) *Water rates.* The city has volumetric rates based on customer class. In 2014, the city moved from a uniform block rate to the volumetric system. Water rates are in Appendix D to this Code.

(f) *Water systems operations.*

(1) The city purchases treated surface water from the City of Houston. The city owns and operates two surface water booster stations and six groundwater plants. Water is received into the ground storage tanks via water supply lines. The water is then distributed through transmission lines to customers. The system capacity is 20 MGD.

(2) The city uses approximately 1,900 million gallons annually. The purchased water provides the majority of the demand and averages over 90 percent of the usage.

(g) *Coordination with regional water planning groups.* The water service area of the city is located within the Region H Water Planning Area and a copy of this plan has been provided to the Region H Water Planning Group (RWPG).

(h) *Record management system.*

(1) The public works department maintains records of:

a. Water received from the City of Houston.

b. Water received from the groundwater plants.

c. Water pumped to the distribution system.

d. Water used for flushing and sewer line cleaning.

e. Estimates of water losses due to water leaks and firefighting/training.

(2) The administrative services department maintains records of:

a. Water sold.

b. Water rates.

In 2005, the city prepared and submitted a water audit in accordance with state water development board guidance as required by section 16.0121 of the state water code and amended by the 78th Texas Legislature.

(i) *Wholesale contracts.* The city has no wholesale contracts with any other municipalities or water districts.

(j) *Plumbing codes.*

(1) The current plumbing code has been formally adopted by the city council and is included in this Code. A copy of this code is on file with the city secretary. The city routinely inspects new construction, remodeling, add-ons, etc., through building permits. All new construction is required to meet state and federal rules regarding water-conserving plumbing fixtures.

(2) The city does not offer a program for the replacement or retrofit of water-conserving plumbing fixtures in existing structures other than what would be required through the permitting process for remodels and building upgrades.

(k) *Recycling and reuse.* The city has no program regarding the reuse of gray water.

(l) *Other conservation measures.* The city recognizes that in order to accomplish the goals and objectives of this water conservation plan, other conservation measures may be required that are not outlined within the body of this document. The city is aware of the water conservation best management practices guide published by the water conservation implementation task force in November 2004. As deemed necessary, the city will implement other measures either from the BMP guide or as otherwise seen fit to assure compliance with the plan.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-33. Drought contingency plan.

In addition to this water conservation plan, the city also has a drought management plan. Drought contingency planning has been developed as a part of this water conservation plan as a means of dealing with conditions which occur from drought and/or water emergencies. The drought contingency and water emergency management phase of the conservation plan has been developed using the guidelines of the TCEQ and the TWDB.

(Ord. No. 2014-24, exh. A, 9-8-2014)

Sec. 86-34. 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 $1.00 and not more than $200.00. 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 in accordance with current policies and ordinances and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city manager or his/her designee, that the same action shall not be repeated while the plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

(Code 2005, § 86-30; Ord. No. 2009-03, § 2, 4-6-2009; Ord. No. 2014-24, exh. A, 9-8-2014)

State law reference—Water conservation by home-rule municipalities, V.T.C.A., Local Government Code § 551.007.

Secs. 86-35--86-46. Reserved.

DIVISION 2. CONNECTIONS

Sec. 86-47. Application for connection of private systems; conditions.

Individual homeowners, apartment owners, subdivision developers, mobile home or trailer park owners or operators, water districts, industries, etc., desiring water or water and sewer service from the city through a private water system may, after approval of the city council and payment of the required tap fees, connect to the city's existing water and sewer distribution and collection system regardless of whether the point of connection to either system is within the corporate limits or the line being connected to is owned by the city, provided the following requirements are adhered to:

(1) The application must clearly specify the applicant's water and/or sewer system construction specifications and standards and also certify that the applicant's final installed system equals or exceeds the city's water and sewer construction standards, and the maximum number of individual homes or mobile homes and trailers, businesses, etc., to be connected to and served by the applicant's system. Applications approved by the city council are valid only as long as the maximum number of customers specified on the application are not exceeded.

(2) All industrial applications must specify maximum and minimum water consumption rates by daily total volumes, daily peak rates and also specify maximum and minimum sewage effluent by daily volume totals and peak rates, daily average, maximum and minimum pH values, daily averages and peak BOD values, along with chemical composition of such effluent. Any such application when finally approved by the city council is valid only as long as all such specified limits are not exceeded and that the chemical constituents of the effluent are not changed.

(3) Before being submitted to the city council for final approval, all such applications must have prior approval by the city engineer, planning commission and drainage board if applicable.

(4) Applications for additional connections to lines or systems outside of the city corporate boundaries that are already connected to the city's systems by prior approval of the city council through any prior agreement will be considered as a new application. Any such application prior to being approved must show written prior proof that the applicant has already secured approval of the prior applicant to connect to his system.

(5) Multiple-dwelling applicants (apartments, developers, water districts, etc.) outside the city requesting water and/or sewer service must pay for required master valves, the master meter and the line that services the applicant to a city approved tie-in point.

(Code 1974, § 18-5; Code 1994, § 78-46; Code 2005, § 86-47)

Sec. 86-48. Installation standards; ownership.

(a) *General*. For all applicants, both within and outside of the corporate limits, all materials, equipment, methods and locations of installation must meet or exceed city standards; and all such installation cost must be borne by the applicant. All approved lines and systems equipment within the corporate limits must be deeded to the city before service commences.

(b) *Construction restorations*. For all applicants, system construction and installation sites within the city must be restored to a condition like that existing prior to construction or in a manner acceptable to the city council by its vote if a deviation to this provision is requested.

(c) *Construction inspection and subsequent maintenance*. For all applicants, initial systems construction and materials along with subsequent maintenance and repairs are subject to inspection and approval by the city. All water and sewer lines and equipment must be tested to the same standards as such equipment used and maintained within the corporate limits of the city. The city will maintain at its expense all lines or systems within its own corporate boundary, whereas the applicant will maintain at his expense all lines or systems outside the city's corporate boundary, unless agreed to otherwise. Applicants may be required, at the discretion of the city council, to make an advance deposit sufficient to cover costs of inspection required in this section.

(Code 1974, § 18-6; Code 1994, § 78-47; Code 2005, § 86-48)

Sec. 86-49. Connection plat.

The applicant desiring service through a private system semiannually shall file with the city a plat showing all water and sewer connections with any additions made, and shall keep such plat up-to-date. Plat plans for such plat shall be drawn to a scale of 50 feet equals one inch and profiles shall be drawn to a scale of five feet equals one inch. Plats shall be submitted on the following standard sheets: Full standard, 24 inches by 36 inches; or half standard, 24 inches by 18 inches.

(Code 1974, § 18-8; Code 1994, § 78-48; Code 2005, § 86-49)

Secs. 86-50--86-71. Reserved.

DIVISION 3. USE REGULATIONS

Sec. 86-72. Furnishing of water outside city not obligated.

By fixing the charges specified in this article, the city does not agree nor obligate itself to furnish or continue to furnish any water to any premises or at any place located beyond its corporate limits.

(Code 1974, § 18-9(a); Code 1994, § 78-61; Code 2005, § 86-72)

Sec. 86-73. Watering lawns and gardens.

Except when the water conservation plan adopted in section 86-30 is in effect, city water users shall alternate the watering of lawns and gardens in the following manner: Watering of lawns and gardens of residences and businesses having addresses ending with an even number shall be permitted on even-numbered dates only and those ending with odd numbers shall be permitted on odd-numbered dates only.

(Code 1974, § 18-10; Code 1994, § 78-62; Code 2005, § 86-73)

Sec. 86-74. Fire hydrants to be equipped with lock.

All fire hydrants installed within the corporate limits of the city shall be equipped with a connecting device known as a "hydrolock," or its equivalent.

(Code 1974, § 18-11; Code 1994, § 78-63; Code 2005, § 86-74)

Sec. 86-75. Backflow prevention and customer service inspections.

(a) *Scope.* This section applies to all water service customers within the city where water service or the associated plumbing has been altered or newly installed, where the possibility of unprotected cross-connections may exist, or where an existing backflow prevention assembly is installed.

(b) *Purpose.* The purpose of this section is to:

(1) Protect the public water supply of the city from cross-contamination or pollution by separating potential contaminants from flowing into the public water supply systems;

(2) Prevent unprotected cross-connections by ensuring that all potential sources of contamination shall be separated from the public water supply system by an air gap or an appropriate backflow prevention device;

(3) Establish backflow prevention and customer service inspection program which will systematically and effectively prevent the contamination or pollution of the city's potable water supply system; and

(4) Follow the guidelines set forth in the state commission on environmental quality rules and regulations for public water systems.

(c) *Authority.* The city, and all designated representatives, will be considered the authority having jurisdiction. The public works department and the community development department of the city are authorized to make all necessary and reasonable rules and policies consistent with respect to the enforcement of this section.

(d) *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:

Altered means any material improvement, relocation of or addition to the water supply system which does not include replacement of fixtures.

Back-siphonage means a form of backflow due to a deduction in system pressure which causes a sub-atmospheric pressure to exist at a site in the water system.

Backflow means any unwanted flow of used, nonpotable water or chemical substance from any piping system into the public water supply system.

Backpressure means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

Cross-connection means any unprotected water supply connection, actual or potential, between the water supply system and any other source through which it is possible to introduce any used water, or chemical substance into the public water supply system; bypass arrangements, jumper connections, removable sections, swivel or changeover devices, or other devices through which backflow could occur, shall be considered to be cross-connections.

Health hazard means a potential contamination hazard involving any substance that may cause death, illness, or spread of disease if introduced into the public water supply.

Nonhealth hazard means a potential contamination hazard involving any substance that constitutes a nuisance, or may be aesthetically objectionable, if introduced into the public water supply.

Nonresidential includes all properties except one- and two-family dwellings.

Potential source includes, but is not limited to, any lavatory, sink, or vessel which could provide the potential for backpressure and/or back-siphonage to occur, thereby contaminating the potable water supply system.

Residential includes only one- and two-family dwellings.

Water purveyor means the operator, herein referred to as the city, of the public water system which supplies potable water to the public.

(e) *Backflow prevention program.*

(1) 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 state regulations for public water systems and this division. The water purveyor shall discontinue water service if a required backflow prevention assembly is not installed, maintained, and tested in accordance with state regulations and this section.

(2) All types of backflow prevention assemblies shall be installed according to the hazards table inset below.

a. Table 1 reflects types of uses of a premises, their corresponding hazard classification and recommended backflow assemblies.

b. Table 2 reflects different types of internal cross-connections, their corresponding hazard classifications and recommended backflow assemblies.

TABLE 1

The following table lists many common hazards. It is not an all-inclusive list of the hazards which may be found connected to public water systems.

Premises Isolation Description of Premises	*Assessment of Hazard*	*Required Assembly*
Aircraft and other missile plants	Health	RPBA or AG
Animal feedlots	Health	RPBA or AG
Automotive plants	Health	RPBA or AG
Breweries	Health	RPBA or AG
Canneries, packing houses and rendering plants	Health	RPBA or AG
Cold storage facilities	Health	RPBA or AG

Commercial car wash facilities	Health	RPBA or AG
Commercial laundries	Health	RPBA or AG
Connection to sewer pipe	Health	AG
Dairies	Health	RPBA or AG
Docks and dockside facilities	Health	RPBA or AG
Dye works	Health	RPBA or AG
Food and beverage processing plants	Health	RPBA or AG
Hospitals, morgues, mortuaries, medical clinics, dental clinics, veterinary clinics, autopsy facilities, sanitariums, and medical labs	Health	RPBA or AG
Metal manufacturing, cleaning, processing, and fabrication plants	Health	RPBA or AG
Microchip fabrication facilities	Health	RPBA or AG
Paper and paper products plants	Health	RPBA or AG
Petroleum processing or storage facilities	Health	RPBA or AG
Photo and film processing labs	Health	RPBA or AG
Plants using radioactive material	Health	RPBA or AG
Plating or chemical plants	Health	RPBA or AG
Pleasure-boat marinas	Health	RPBA or AG
Private/individual/unmonitored wells	Health	RPBA or AG
Reclaimed water systems	Health	RPBA or AG
Restricted, classified or other closed facilities	Health	RPBA or AG
Rubber plants	Health	RPBA or AG
Sewage lift stations	Health	RPBA or AG
Sewage treatment plants	Health	RPBA or AG
Slaughterhouses	Health	RPBA or AG
Steam plants	Health	RPBA or AG
Tall buildings or elevation differences where the highest outlet is 80 feet or more above the meter	Nonhealth	DCVA

TABLE 2

The following table lists many common hazards. It is not an all-inclusive list of the hazards which may be found connected to internal piping connected to public water systems.

Internal Protection Description of Cross-Connection	*Assessment of Hazard*	*Required Assembly*
Aspirator (medical)	Health	AVB or PVB
Aspirators	Nonhealth*	AVB
Autoclaves	Health	RPBA
Autopsy and mortuary equipment	Health	AVB or PVB
Bedpan washers	Health	AVB or PVB
Connection to industrial fluid systems	Health	RPBA
Connection to plating tanks	Health	RPBA
Connection to salt-water cooling systems	Health	RPBA
Connection to sewer pipe	Health	AG
Cooling towers with chemical additives	Health	AG
Cuspidors	Health	AVB or PVB
Degreasing equipment	Nonhealth*	DCVA
Domestic space-heating boiler	Nonhealth*	RPBA
Dye vats or machines	Health	RPBA
Firefighting system (toxic liquid foam concentrates)	Health	RPBA
Flexible shower heads	Nonhealth*	AVB or PVB
Heating equipment:		
Commercial	Nonhealth*	RPBA
Domestic	Nonhealth*	DCVA
Hose bibbs	Nonhealth*	AVB
Irrigation systems:		
With chemical additives	Health	RPBA
Without chemical additives	Nonhealth*	DCVA, AVB, or PVB
Kitchen equipment--Commercial	Nonhealth*	AVB
Lab bench equipment	Health or Nonhealth*	AVB or PVB
Ornamental fountains	Health	AVB or PVB
Sewage ejectors	Health	AG
Sewage pump	Health	AG
Shampoo basins	Nonhealth*	AVB
Specimen tanks	Health	AVB or PVB
Steam generators	Nonhealth*	RPBA
Steam tables	Nonhealth*	AVB

Sterilizers	Health	RPBA
Swimming pools:		
Private	Nonhealth*	PVB or AG
Public	Nonhealth*	RPBA or AG
Tank vats or other vessels containing toxic substances	Health	RPBA
Trap primers	Health	AG
Vending machines	Nonhealth*	RPBA or PVB
Watering troughs	Health	AG or PVB

NOTE: AG = air gap; AVB = atmospheric vacuum breaker; DCVA = double check valve backflow prevention assembly; PVB = pressure vacuum breaker; RPBA = reduced pressure principle backflow prevention assembly.

+AVBs and PVBs may be used to isolate health hazards under certain conditions, that is, back-siphonage situations. Additional area of premises may be required.

*Where a greater hazard exists (due to toxicity or other potential health impact) additional area protection with RPBA is required.

(f) *Assembly testing and maintenance, annual testing.*

(1) All backflow prevention assemblies, independent of the hazard identified, shall be tested upon installation by a certified 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 annually and certified to be operating within specifications. The city public works department will provide written notification to the property owners 30 days in advance stating when the annual test of their backflow prevention assembly is required. Results of all testing must be forwarded to the city community development department by the date of expiration. Failure to receive notification does not relieve property owners of the responsibility of annual testing for each assembly.

(2) 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 14, current edition) or the University of Southern California Manual of Cross-Connection Control (current edition), and the regulations set forth by the state commission on environmental quality.

(3) Assemblies shall be repaired, overhauled, or replaced at the expense of the water customer whenever said assemblies are found to be defective. Original forms of such test, repairs, and overhaul shall be kept and submitted to the city community development department within five business days of the test, repair or overhaul of each backflow prevention assembly.

(4) All existing backflow prevention assemblies which do not meet current state regulations but were approved devices at the time of installation and which have been properly maintained, may, except for the testing and maintenance requirements under subsections (f)(1) through (3) of this section, continue in use until the assembly cannot meet all minimum annual testing performance standards. The city community

development department may require the assembly be replaced in the event that it is determined that the continued use of the assembly constitutes a health hazard.

(5) No backflow prevention assembly or device shall be removed from use, relocated, or other assembly or device substituted without the approval of, or a permit from, the city community development department. Whenever the existing assembly or device is moved from the present location or cannot be repaired, the backflow assembly or device shall be replaced with a backflow prevention assembly or device that complies with this section, and which has been tested as herein required.

(6) Gauges used for backflow prevention assembly testing shall be calibrated at least annually. The original calibration form shall be submitted to the city community development department within five business days after calibration.

(g) *Responsibility.* It shall be the responsibility of the water customer where backflow prevention assemblies are installed to have a field test performed and repairs completed (if necessary) by a certified backflow prevention assembly tester. Tests and repairs shall be at the expense of the water user.

(h) *Customer service inspections program required.* A customer service inspection report shall be completed prior to providing continuous water service to all new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other contaminant hazards exist, or after any material improvement, correction, alteration, or addition to the private water distribution facilities.

(i) *Authority to perform required customer service inspections.*

(1) State board of plumbing examiners certified plumbing inspectors and licensed plumbers with the water supply protection specialist endorsement may perform customer service inspections.

(2) Certified waterworks operators and members of other water related professional groups who have completed a training course, passed an examination administered by the state commission on environmental quality or its designated agent, and hold a current endorsement issued by the commission may perform customer service inspections.

(j) *Completion of required customer service inspections.* All required customer service inspections associated with a plumbing permit shall be included in the plumbing final inspection by the city's designated plumbing inspector. All additional customer service inspections will be the responsibility of the property owner.

(k) *Minimum standards of a required customer service inspection.* The required customer service inspection must certify that:

(1) No direct connection between the public water supply and a potential source of contamination exists, and that potential sources of contamination are isolated from the public water supply by a properly installed air gap or an appropriate backflow prevention assembly.

(2) No cross-connection between the public drinking water supply and a private water system exists, and where an actual air gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a certified backflow prevention assembly tester.

(3) No connection exists which would allow the return of water used for condensing, cooling or industrial processes back to the public water supply.

(4) For all newly constructed systems and for any portion of an existing system at or within view from a backflow prevention device or work of any type performed on said existing system, the following statements are required:

a. Lead tests have been performed, as required, and no pipe or pipe fitting which contains more than 0.2 percent lead has been used for the installation or repair of plumbing at any connection which provides water for human use; and

b. Lead tests have been performed as required, and no solder or flux which contains more than 0.2 percent lead has been used for the installation or repair of plumbing at any connection which provides water for human use.

(l) *Authority having jurisdiction; enforcement.* The city community development department and public works department shall have the responsibility for maintenance of the backflow prevention and customer service inspections program, and for enforcement of this section. All customers shall have until March 31, 2009, to come into compliance with the use of backflow preventers and to have their inspections done and reports submitted to the community development department.

(m) *Authority to disconnect service.* If a person violates this section, the city public works department shall, upon due notice to the water customer, be authorized to discontinue water service to the premises where such violation occurred.

(n) *Reconnection.* Upon request to open or reinstitute water service at a location previously discontinued due to violations of this section, proof of a current customer service inspection as described in subsections (i) through (k) of this section shall be provided. Services disconnected under such circumstances shall be restored only upon receipt of the inspection report indicating that the previous violation has been remedied and received payment of a reconnection charge, consistent with the fee and charge schedule found in Appendix D to this Code, and any other costs incurred by the city in discontinuing service. In addition, suitable assurance must be given to the city that the same violation shall not be repeated while this section is in effect. Compliance with this section may also be sought through injunctive relief.

(Code 2005, § 86-75; Ord. No. 2008-26, § 1, 8-18-2008; Ord. No. 2017-09, § 2, 4-3-2017)

Secs. 86-76--86-91. Reserved.

DIVISION 4. RATES, CHARGES, FEES

Sec. 86-92. Sale of potable water inside corporate limits.

Monthly rates shall be charged for potable water service furnished through water meters by the city to all single-family units and businesses, including, but not limited to, trailers, apartments, condominiums, multifamily, multibusiness and commercial units using potable water inside the corporate limits of the city. Such rates are set by resolution and printed in Appendix D to this Code.

(Code 1974, § 18-3(a); Code 1994, § 78-76; Code 2005, § 86-92; Ord. No. 92-4, § 1, 4-6-1992)

Sec. 86-93. Sale of potable water outside corporate limits.

Monthly rates shall be charged for potable water service furnished through water meters to all users of potable water outside the corporate limits of the city, except where the city has, by contract with a user of potable water, agreed to sell at different rates. Such rates are set by resolution and printed in Appendix D to this Code.

(Code 1974, § 18-3(b); Code 1994, § 78-77; Code 2005, § 86-93)

Sec. 86-94. Adjustment of bill as result of defect in customer's line.

(a) Any residential, commercial, multifamily or outdoor customer of the city may request an adjustment of any water bill submitted to him by the city for water usage because of a loss of water through an excusable defect in the customer's water line provided that only one bi-monthly bill out of six consecutive bi-monthly bills may be adjusted, by filing a sworn written application with the utility official and mailing or delivering the same to the department within six months of the repair of the excusable defect. Such application shall contain the following matters and such other information as the utility official may require:

(1) The name of the customer, the address, primary e-mail address or description of the property or premises furnished water, the bill which is sought to be corrected, the date of the bill and the period of water usage covered thereby.

(2) A statement of the date on which the excusable defect in the customer's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.

(3) A written acknowledgment that the customer makes the statements shown on the application and swears to their truth for the purpose of requesting the city to grant a reduction in the amount of the water bill for which a correction is requested.

(4) The application shall show whether or not there have been any additional water appliances placed in use on the customer's premises during the period covered by such bill or in the preceding 12 months. Documentation shall be submitted detailing the exact nature and date of the repairs to the customer's water line.

(5) This documentation should also include proof or statement by the customer or vendor making the repair whether or not the additional/excess water flowed through the city's sewer system.

(6) A statement that the customer is personally familiar with all of the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.

(7) The customer shall execute a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under V.T.C.A., Penal Code ch. 37 and shall state that the applicant/account holder certifies that the application contains no false statements.

(8) As used in this section, the term "excusable defect" shall mean a rupture or leakage of the customer's water line as may be caused by freezing weather, settlement, corrosion, wear or accident. The term "excusable defect" does not apply to defective or out-of-repair faucets or other plumbing fixtures, such as toilets.

(b) Applications under this section shall be made on forms prescribed by the director of administrative services.

(c) Upon receipt of a properly completed application, the utility official shall review such application, and if he approves the same as being in compliance with this section, the customer's bill shall be corrected by applying to the amount of the water consumption shown thereon in excess of the customer's average water usage, a rate of charge equal to one-half of the normal rate of such water usage of customer's rate classification, which reduction in rate shall be accomplished in the following manner:

(1) The customer's average water usage over the prior 12 months shall be determined. If the customer has not had water service at the service address for a sufficient length of time

to make such determination, then the average water usage over a period of 12 months for city water customers will be used. This average water usage so determined will hereafter be referred to as "average usage."

(2) From the total water consumption shown on the bill submitted for correction, the average usage will be deducted. The resulting figure will hereafter be referred to as "excess usage."

(3) The excess usage will be considered consumption beyond the average usage, and one-half of the regular rate for consumption beyond the average usage (for customer's rate classification) will be applied to the excess usage and this will determine the amount the customer must pay for the excess usage.

(4) The regular rate for the customer's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the amount that the customer must pay for water usage during the period covered by the adjusted bill.

(5) If the commercial, multi-unit commercial or multi-unit residential customer provides documentation that the excess water usage did not flow through the city's sewer system, the sewer charges included on the customer's bill in question will be adjusted to charge for the customer's 12-month average sewer usage. This sewer adjustment would not apply to single unit residential customers as sewer charges are based on winter months' average for this customer class. As referenced in this section, winter months are defined as November through February.

(6) If an excusable defect (leak) occurs during the winter months' average calculation period for a single unit residential customer, sewer charges for the customer will be based on that customer's prior year winter months' average at the location.

(7) If a single unit residential customer has not established a prior year winter months average at the location, the citywide winter months average will be used to bill for sewer charges.

(d) Any correction authorized in the section shall be accomplished if the bill under consideration for adjustment has already been paid, by crediting the customer's account with the amount thereof, to be applied against charges for water and/or sewer thereafter accruing. If a customer, whose account has been so credited, discontinues water service before the amount of the credit shall have been absorbed by such subsequent charges, the remaining balance shall be refunded by check payable to the customer and mailed to the forwarding address provided by the customer at the time of service discontinuance, if all other sums due the city have been paid. If such bill has not already been paid, the correction shall be made by reducing the amount of such bill accordingly.

(e) A determination by the director of administrative services, or his/her designee, of the amount of a correction to be made in a customer's water bill in accordance with the provisions of this section shall be final.

(Code 1994, § 78-78; Code 2005, § 86-94; Ord. No. 99-8, § 1, 1-18-1999; Ord. No. 2012-02, § 1, 1-23-2012; Ord. No. 2015-01, § 1, 2-2-2015)

Sec. 86-95. Adjustment of unusually large bill.

(a) Any single-family residential, multifamily residential, commercial or outdoor customer who receives a water bill for any given billing period that is computed on the basis of a gross quantity greater than 200 percent of the average bi-monthly gross quantity applicable to such customer, may request an adjustment of the bill in the manner provided in this section, provided that, for any given customer, only one such bi-monthly bill out of any series of six consecutive bi-

monthly bills may be adjusted under this section. The average monthly gross quantity applicable to a customer means the average gross quantity for water service to the same premises during the months immediately preceding the period for which the adjustment is sought. In order to request such an adjustment, the customer shall file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth and understanding that the application is a government record subject to criminal prosecution for false statements under V.T.C.A., Penal Code ch. 37, and the customer shall state that the application contains no false statements. The application shall identify the bill and briefly state:

(1) The reasons for the request for the adjustment;

(2) A description of the additional water appliances or fixtures, if any, that have been placed in use by the customer during the billing cycle in question or the preceding 12 months;

(3) That there have been no plumbing repairs or necessity therefore during the billing period for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and

(4) Such other information as the application may require.

(b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall make an adjustment to correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer was charged for more water than the customer consumed during the billing period in question but is unable to account to such unusual quantity, the utility official shall re-compute the bill using as a gross quantity 200 percent of the average bi-monthly gross quantity applicable to the customer.

(c) Sewer charges for single unit residential customers are not eligible for adjustment as sewer charges are based on winter months' average for this customer class. As referenced in this section, winter months are defined as November through February.

(d) If a single unit residential customer has not established a prior year winter months average at the location, the citywide winter months average will be used to bill for sewer charges.

(e) In the event that an adjustment is made under this subsection, it shall be accomplished, if the bill under consideration for adjustment has already been paid, by crediting the customer's account with the amount thereof, to be applied against charges for water thereafter accruing. If a customer whose account so credited discontinues water service before the amount of the credit has been absorbed by such subsequent charges, the remaining balance shall be refunded by check payable to the customer and mailed to the forwarding address provided by the customer at the time of discontinuance, if all other sums due the city have been paid. If such bill has not already been paid, the adjustment shall be made by reducing the amount of such bill accordingly.

(f) A determination by the director of administrative services, or his/her designee, of the amount of a correction to be made in a customer's water bill in accordance with the provisions of this section shall be final.

(Code 1994, § 78-79; Code 2005, § 86-95; Ord. No. 99-8, § 2, 1-18-1999; Ord. No. 2012-02, § 2, 1-23-2012; Ord. No. 2015-01, § 2, 2-2-2015)

Secs. 86-96--86-118. Reserved.

ARTICLE III. SANITARY SEWER SYSTEM*

***State law reference**—Municipal power regarding sewers and privies, V.T.C.A., Health and Safety Code § 342.002.

DIVISION 1. GENERALLY

Sec. 86-119. Compliance with article.

To ensure proper operation of the entire sewage collection and processing system, all approved connected users of the city sewage disposal system, either within or outside the corporate limits, must comply with this article and are subject to all requirements and regulations of this article.

(Code 1974, § 18-21; Code 1994, § 78-101; Code 2005, § 86-119)

Secs. 86-120--86-136. Reserved.

DIVISION 2. CONNECTIONS

Sec. 86-137. Required; standards.

Every owner of a building, or part thereof, located within the city and used for human occupancy any part of the day or night, where a main or lateral sewer of the public sewer system of the city is laid and maintained by the city within 175 feet of the tract whereon such building is located or proposed, shall install within such building or part of such building, or upon the premises where such building is situated, a water closet and shall have such water closet connected with the city's public sewer system. Every such closet shall be supplied with water and with a water flush tank adequate to properly flush such toilet or closet.

(Code 1974, § 18-22; Code 1994, § 78-111; Code 2005, § 86-137)

Sec. 86-138. Use of fixtures in violation of article.

It shall be unlawful for any person, whether as owner, agent of the owner, or lessee, tenant, proprietor or occupant of any building or part of building or premises which shall be or is located on a tract of land where a main or lateral sewer of the public sewer system of the city exists or is laid and maintained by the city within 175 feet of such tract, or which building or tract shall otherwise come within the provisions of section 86-137, to construct, use or maintain, or permit to be constructed, used or maintained, upon the lot, parcel of land or premises upon which such building or part of building is located, any privy, water closet, urinal, slop drain, bathtub drain, shower bath drain, wastewater drain or any other receptacle whatever used or to be used for the purpose of receiving and discharging sewage matter, wastewater or slop of any kind, unless the same shall be connected with the public sewer system of the city.

(Code 1974, § 18-23; Code 1994, § 78-112; Code 2005, § 86-138)

Sec. 86-139. Construction plan to show compliance.

No permit shall be issued for the construction of any building in the city on any lot or any parcel of land where there is a main or lateral of the public sewer system of the city adjoining such lot or parcel of land or where such lot or parcel of land shall come within 175 feet of such main or lateral sewer of the city unless the plans and specifications show compliance with this article and other ordinances of the city.

(Code 1974, § 18-24; Code 1994, § 78-113; Code 2005, § 86-139)

Sec. 86-140. Cesspools, septic tanks, etc., prohibited where sewer available; not to be connected with sewer system.

It shall be unlawful for any person, whether as owner, agent of the owner, lessee, tenant, proprietor or occupant of any building or part of any building, or of any lot, parcel of land or premises coming within the provisions of sections 86-137 and 86-138, to construct, use or maintain or permit to be constructed, used or maintained on such lot, parcel of land or premises, any cesspool, septic toilet, septic tank or pit toilet. No cesspool, septic toilet, septic tank or privy vault shall be connected with the public sewer system.

(Code 1974, § 18-25; Code 1994, § 78-114; Code 2005, § 86-140)

Secs. 86-141--86-163. Reserved.

DIVISION 3. USE REGULATIONS

Subdivision I. In General

Sec. 86-164. Use of premises without required water closets.

It shall be unlawful for the owner or occupant of any building in the city, any portion of which is used for any portion of the day, to fail to have at least one water closet in such building connected with the public sewer, except in the case where two or more such buildings are used by one firm or corporation, which shall require but one connection.

(Code 1974, § 18-26; Code 1994, § 78-126; Code 2005, § 86-164)

Sec. 86-165. Wastewater receptacle required.

It shall be unlawful for the owner or occupant of any building in the city in which food is cooked or clothing is washed for the public to fail to have a suitable sink, slop stone, drain or hopper for the reception of water.

(Code 1974, § 18-27; Code 1994, § 78-127; Code 2005, § 86-165)

Sec. 86-166. Uncovering sewer; connecting without authority.

It shall be unlawful for any person to uncover the public sewer for any purpose, or to make connection therewith, or to uncover the public connection branches thereof, unless by consent or under the supervision of the city or its duly authorized agents.

(Code 1974, § 18-28; Code 1994, § 78-128; Code 2005, § 86-166)

Sec. 86-167. Obstruction of or damage to sewer system.

It shall be unlawful for any person to obstruct, puncture, cut or in any way injure any of the pipes, works or drains or machinery belonging to or connected with any sewer system owned, used or operated in the city, or to place or drop or throw any substance whatever into the sink, water closet, bathtub, vessel drains or other receptacles belonging to or connected with any sewer system owned, used or operated in the city, which may obstruct or injure such sewer system.

(Code 1974, § 18-29; Code 1994, § 78-129; Code 2005, § 86-167)

Sec. 86-168. Depositing sewage on ground.

It shall be unlawful for any person to throw or allow to be thrown or deposited on the surface of the ground, or in any hold or vault in or under the surface of the ground, in the city, except in the proper and necessary manuring of the soil, any liquid or solid filth, feces or urine.

(Code 1974, § 18-30; Code 1994, § 78-130; Code 2005, § 86-168)

Sec. 86-169. Depositing wastewater on streets or in ditches.

It shall be unlawful for any person to allow any slop, drainings, wash or wastewater of any kind to flow over the pavement or into the street or into open ditches.

(Code 1974, § 18-31; Code 1994, § 78-131; Code 2005, § 86-169)

Sec. 86-170. Depositing garbage, etc.

It shall be unlawful for any person to deposit any garbage, offal, dead animals, filth or any substance having a tendency to obstruct the flow of sewage in any manhole, lamphole, flush tank or sewer opening.

(Code 1974, § 18-32; Code 1994, § 78-132; Code 2005, § 86-170)

Sec. 86-171. Deposit of caustics, etc.

It shall be unlawful for any person to discharge acids, caustics, chemicals, fuels or waste oil and greases into the sewer system which may damage lines, bacteria or plants.

(Code 1974, § 18-33; Code 1994, § 78-133; Code 2005, § 86-171)

Sec. 86-172. Overload.

Unless a separate sewage treatment contract has been negotiated with the city, no commercial or business establishments shall discharge sewage effluent into the city sewer system which may tend to create an overload. An "overload" is defined as that condition where the effluent from any single commercial or private connection to a city sewer main exceeds any one or all of the following specified effluent values:

(1) Flow rate: 50 gallons per minute maximum.

(2) Total daily integrated flow: 10,000 gallons.

(3) Daily average suspended solids: 400 parts per million.

(4) Daily average BOD: 400 parts per million maximum.

(5) Peak BOD: 500 parts per million maximum.

(Code 1974, § 18-34; Code 1994, § 78-134; Code 2005, § 86-172)

Sec. 86-173. Preventing illegal discharges.

The city is hereby empowered to stop and prevent from discharging into the public sewer through any private drain or house or commercial connection, the discharge of any materials or substances which are liable to injure such sewers or sewage processing system or to obstruct the flow of sewage, or on which the sewer charges according to the schedule adopted in this article have not been paid.

(Code 1974, § 18-35; Code 1994, § 78-135; Code 2005, § 86-173)

Secs. 86-174--86-199. Reserved.

Subdivision II. Infiltration

Sec. 86-200. Definitions.

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

Infiltration means the water entering a sanitary sewer system and/or service connection from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

Inflow means the water discharged into a sanitary sewer system and/or service connection from such sources as, but not limited to, roof leaders, cellars, swimming pool and/or spa drains, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catchbasins, stormwaters, surface runoff, and street wash waters or drainage.

Sanitary sewer means a public sewer that conveys domestic wastewater, industrial waste, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

(Code 1994, § 78-146; Code 2005, § 86-200; Ord. No. 92-1, § 2, 2-17-1992)

Sec. 86-201. Responsibility and applicability.

(a) The city's director of public works, or his/her designee, shall be responsible for the inspection, maintenance, repair and operational integrity of the city's sanitary sewer collection system.

(b) Any person owning or occupying a tract or parcel of land upon which sanitary sewer service lines are located which flow into public lines in city streets, alleys and easements (including, but not limited to, single-family or duplex residences, mobile homes and/or trailer parks, apartments, places of business, schools, hospitals, churches, structures of any kind, vacant buildings or vacant land) shall be responsible for the inspection, maintenance, repair and operational integrity of such private sanitary sewer service line.

(Code 1994, § 78-147; Code 2005, § 86-201; Ord. No. 92-1, § 1, 2-17-1992)

Sec. 86-202. Inspections.

Prior to the original connection, reconnection or transfer of water and/or sewer service to a tenant or property owner, the city may inspect or require the inspection of private sanitary sewer service lines thereon for the purpose of determining the amount of infiltration and inflow into such lines, if any. Inspections shall be made or required when, based upon local infiltration and inflow conditions and experience, the director of public works has determined that such inspections are necessary to effectuate the purposes of this subdivision. Any conditions discovered in such line inspections causing or allowing infiltration or inflow shall be repaired by the property owner or tenant, or agent thereof, prior to such original connection, reconnection or transfer of city water and/or sewer service, as applicable. Where conditions have been discovered on existing private service lines but for which no application for reconnection or transfer to city service has been sought, the property owner or tenant shall cause such repairs and maintenance to be performed in accordance with sections 86-204 and 86-205.

(Code 1994, § 78-148; Code 2005, § 86-202; Ord. No. 92-1, § 3, 2-17-1992)

Sec. 86-203. Notification; termination of service.

(a) The director of public works or his/her designee shall notify, in writing, by registered mail, return receipt requested, each property owner on whose property a source of infiltration or inflow of water into the city's sanitary sewer system exists, as well as the nature and location of the sources. The property owner shall within three calendar months of date of notification have the sources repaired, at his expense.

(b) A reminder notice shall be sent following one month after the original notice provided in subsection (a) of this section if the repairs required thereby have not been completed.

(c) A notice of discontinuance of service shall be sent following two months after the original notice under this section was sent if the repairs required thereby have not been completed.

(d) If after the expiration of three months following the original notice sent under this section the repairs required thereby have not been completed, the director of public works shall terminate water and/or sanitary sewer service to the property and the property owner and/or tenant shall be deemed in violation of this section and subject to the penalties set forth in section 86-205.

(Code 1994, § 78-149; Code 2005, § 86-203; Ord. No. 92-1, § 4, 2-17-1992)

Sec. 86-204. Repairs.

(a) If a private service line has defects allowing infiltration or inflow and is without glued, leaded or rubber-gasketed joints, and which cannot be repaired, the property owner shall replace the entire private sewer service line with PVC pipe schedule 40.

(b) All repairs required by this subdivision shall be made by a plumber licensed by the state or by the property owner, if a resident. A homeowner may install or maintain plumbing and/or sewer fixtures or equipment within his own property boundaries, provided such work is performed by himself and used exclusively for himself or his family. Such privilege does not convey the right to violate any provision of this subdivision nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees therefor.

(c) After a repair required by this subdivision has been completed and before it has been covered, the city plumbing inspection department shall be notified to inspect and approve its adequacy and workmanship. If the city plumbing inspector leaves a green tag signifying a satisfactory repair, the plumber or owner may replace the cover.

(d) If the city plumbing inspector leaves a red tag, the plumber or owner must contact the city official designated on the red tag and correct the repairs as specified and then notify the city plumbing inspection department for a followup inspection. The owner and/or plumber shall not cover such repairs until ultimate approval by the city plumbing inspector, and, if covered, shall be required to excavate and the city shall reinspect the repairs and, if still defective, disconnect water and/or sewer service.

(Code 1994, § 78-150; Code 2005, § 86-204; Ord. No. 92-1, § 5, 2-17-1992)

Sec. 86-205. Penalties for violation of subdivision.

(a) Any person who shall fail to make necessary repairs within the three-month period as set forth in section 86-203(d) shall be subject to termination of water and/or sewer service to the property.

(b) Any person who shall violate any provision of this subdivision, or who shall fail to perform any act required in this subdivision following notice as prescribed in this subdivision, shall be guilty of a misdemeanor.

(c) If the city is unable to locate the property owner or his agent or the property owner or his agent refuses to make the necessary repairs required by this subdivision, the city may, at its discretion, initiate proceedings against the owner thereof in accordance with the procedures set forth in section 14-319 et seq., passed and approved on December 18, 1989, and, following any hearing thereon, may order such work done, assess a charge against the owner thereof for the expenses incurred in correcting the defects, and attach a lien to the affected property to secure the costs therefor, all in accordance with and pursuant to the procedures set forth in section 14-319 et seq.

(d) The existence of infiltration or inflow into private sanitary sewer service lines is hereby declared to constitute a nuisance and a health hazard, and a substandard condition pursuant to section 14-319 et seq.

(Code 1994, § 78-151; Code 2005, § 86-205; Ord. No. 92-1, § 6, 2-17-1992)

Secs. 86-206--86-233. Reserved.

DIVISION 4. RATES, CHARGES, FEES

Sec. 86-234. Charges for sewer service inside and outside the corporate boundaries of the city.

All rates, charges and fees for sewer service within and without the city limits are set by resolution and printed in Appendix D to this Code.

(Code 1994, § 78-161; Code 2005, § 86-234)

Secs. 86-235--86-261. Reserved.

ARTICLE IV. EXPANSION AND EXTENSION OF SERVICE

DIVISION 1. GENERALLY

Sec. 86-262. Extension of water and sewer services to properties outside the city limits.

The city council hereby adopts and establishes the following policy with regard to the provision of potable water and sanitary sewer services to properties located outside the corporate boundaries of the city: "Potable Water/Sanitary Sewer Service Policy for Properties Located Outside City Limits." The city will not provide potable water or sanitary sewer utility services outside the corporate limits of the city, except as follows:

(1) The city will continue to honor the interlocal agreement with the City of Pearland to provide utility service to certain residential development;

(2) The city will continue to serve out of city commercial developments that have been provided service prior to the date of adoption of this section;

(3) Upon prior approval by the city council, to properties which require such service to protect persons against undue risk from environmental hazards; and

(4) Upon prior approval by the city council, when the providing of such services is reasonably necessary to preserve and protect the environmental condition of the property being served, and no reasonable alternative is available under the circumstances then existing.

(Code 1994, § 78-186; Code 2005, § 86-262; Ord. No. 2002-05, § 2, 3-4-2002)

Secs. 86-263--86-287. Reserved.

DIVISION 2. EXPANSION OF SERVICE

Sec. 86-288. Water expansion/connection fees; sewage treatment expansion/connection fees.

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

Commercial unit means each separate commercial or business establishment which shall apply for or contract for service from the city's water or sewer system and for which a meter has been or is to be installed.

Residential unit means a house, apartment, townhouse, mobile home, a group of rooms or a single room, or any other separate or individual space intended for occupancy as living quarters.

(b) *Fees*. Water expansion/connection fees and sewage treatment expansion/connection fees for residential or commercial service shall be set by resolution and printed in Appendix D to this Code.

(c) *Policy as to developers*. All developers will be required to extend water and sewer service to the property lines of each lot before streets are topped. These services will require the inspection of a city representative.

(d) *Purpose, payment of fees*. The fees to be paid under the terms of this section are for the maintenance and upgrade of the water and sewer systems (water and sewer construction fund) and shall be due and payable simultaneously with but shall not be received before submission of applications, plans, specifications and other documents necessary to acquire building permits from the city; provided, however, that if the water and/or sewer services shall be used strictly for a purpose not requiring a building permit, such as strictly agricultural purposes (e.g., watering livestock, etc.), then water and/or sewer connections may be provided without the necessity to apply for building permits.

(Code 1974, § 18-7; Code 1994, § 78-196; Code 2005, § 86-288)

Secs. 86-289--86-309. Reserved.

DIVISION 3. EXTENSION OF SERVICE LINES

Sec. 86-310. Authority to extend.

The utility department may extend water and sewer mains in the streets, alleys or easements within the city limits in order to permit connections by persons desiring and seeking water service and sanitary sewer service.

(Code 1974, § 18-47; Code 1994, § 78-206; Code 2005, § 86-310)

Sec. 86-311. Rates.

A charge shall be made against each lot or tract of land and the owner thereof whose water or sewer line shall be connected with any water main or sanitary sewer main other than interceptor trunk lines in the city. Charges shall be determined by dividing the contract cost of the extension by the number of front feet to be served in the extension.

(Code 1974, § 18-48; Code 1994, § 78-207; Code 2005, § 86-311)

Sec. 86-312. Extensions up to 100 feet.

When the property for which the owner desires water or sewer service is located 100 feet or less from the corner of an intersecting street upon which main lines exist, the city will construct the water or the sewer lines at the city's expense to the nearest corner of the property to be served. It shall be the owner's responsibility to pay for the extension of water or sewer lines from this point to the far corner of property owned by him and which is served by the extension requested.

(Code 1974, § 18-49; Code 1994, § 78-208; Code 2005, § 86-312)

Sec. 86-313. Extensions over 100 feet.

When the property for which the owner desires water or sewer service is located more than 100 feet from the corner of an intersecting street upon which a main line exists, and provided that no previous extensions have been made in such block from the existing main line, the city will construct the water or sewer lines for a distance of 100 feet from the corner of the intersecting street rights-of-way at city expense. It shall be the owner's responsibility to pay for the extension of water or sewer lines from such point to the far corner of property owned by him and which is served by the extension requested.

(Code 1974, § 18-50; Code 1994, § 78-209; Code 2005, § 86-313)

Sec. 86-314. Limitation of extensions.

(a) Where the property for which the owner desires water or sewer service is located within a block where prior extensions have been made by the city, it will be the responsibility of the owner to pay for extensions of water and sewer lines from the existing location of the lines to the far corner of the property owned by him and which is served by the extension requested.

(b) When the property for which water or sewer services are desired fronts upon any section of water or sewer lines which have previously been extended at city expense as provided for in this division, the regular prorated charge as set forth in this division shall be paid to and retained by the city.

(c) Applicants shall pay twice the prorated charge as set forth in this division for extensions made under this division, such costs representing the cost per lineal foot of water or sewer lines constructed under the provisions of this division. Thereafter, when the intervening frontage upon which charges have been paid are connected to such line extensions, the intervening property owner shall pay the prorated charge per front foot as set out in this division to the person paying the original extension cost. In no event shall the applicant be refunded any amount that would represent any part of the prorated charges against his own property that can be served by the given extension nor any amount in excess of prorated charges paid by intervening property owners.

(Code 1974, § 18-51; Code 1994, § 78-210; Code 2005, § 86-314)

Sec. 86-315. New subdivisions.

Where extensions of water or sewer lines are required to serve property which has been subdivided or platted for development and resale, the city will construct lines or mains under the provisions of this division upon deposit by the subdivider of the required prorated amount as set forth in this division to cover extensions to such subdivisions and across the frontage of the tract of land on an already existing and dedicated street of the city.

(Code 1974, § 18-52; Code 1994, § 78-211; Code 2005, § 86-315)

Sec. 86-316. Availability of funds or materials.

In no event may the city be required to make extensions in accordance with the provisions of this division if there are insufficient funds or material available for that purpose.

(Code 1974, § 18-53; Code 1994, § 78-212; Code 2005, § 86-316)

Sec. 86-317. Application of funds collected.

Any and all forms of money collected as a cost, fee or collection charge in the manner set out in this division shall be credited to the utility fund of the city.

(Code 1974, § 18-54; Code 1994, § 78-213; Code 2005, § 86-317)

Sec. 86-318. Existing lines exempt.

All property platted into lots or tracts of land and having adequate existing water and sanitary sewer mains or lines adjoining it shall be exempt from the prorated charges from main and line extension; provided, however, the usual and customary tapping fee shall be collected from the owners or their agents of such property before service connections are made to the existing mains or lines.

(Code 1974, § 18-55; Code 1994, § 78-214; Code 2005, § 86-318)

Sec. 86-319. Specifications of lines to be set by city.

The design, size, location, grade and point of connection of all water and sewer lines shall be set by the city and the city will pay the difference in cost of any water line required by them in

excess of six-inch mains and will pay the difference in cost of any sewer lines in excess of eight-inch mains.

(Code 1974, § 18-56; Code 1994, § 78-215; Code 2005, § 86-319)

Sec. 86-320. When owner may install.

All water and sanitary sewer extensions shall be laid, constructed and installed by the city directly or by contract, except that the owner, or his duly authorized agent, of a tract of land may exercise the option of installing an extension to serve his property, including all mains, valves, hydrants and other appurtenances as specified by the city at his own expense and through a private contract, in which event that particular property will not be charged nor subjected to any additional prorated charges for water or sanitary sewer mains, nor will the person so constructing such water or sewer mains be entitled to any refunds therefor.

(Code 1974, § 18-57; Code 1994, § 78-216; Code 2005, § 86-320)

Sec. 86-321. No vested rights.

No person shall acquire any vested rights under the provisions of this division except the right of repayment of prorated charges.

(Code 1974, § 18-58; Code 1994, § 78-217; Code 2005, § 86-321)

Secs. 86-322--86-340. Reserved.

ARTICLE V. REGULATION OF STORMWATER RUNOFF

DIVISION 1. GENERALLY

Sec. 86-341. 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:

Accelerated erosion means erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Applicant means a property owner or agent of a property owner who has filed an application for a stormwater management permit.

Authorized enforcement agency means employees or designees of the director of the municipal agency designated to enforce this article.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. The term "BMPs" also includes treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Building means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Clean Water Act (CWA) means The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972 (33 USC 1251 et seq.), and any subsequent amendments thereto.

Clearing means any activity which removes the vegetative surface cover.

Commencement of construction means the initial disturbance of soils associated with clearing, grading, excavating activities, or other similar activities.

Construction activity means activities subject to TPDES construction permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

Construction site operator means the MS4 operator associated with a construction project that meets all of the following criteria:

(1) The operator has operational control over construction plans and specifications to the extent necessary to meet the requirements and conditions of this general permit; and

(2) The operator has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

Detention means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of streamflow or surface runoff and gradual release of stored water at controlled rates.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Drainageway means any channel that conveys surface runoff throughout the site.

Erosion and sediment control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Erosion control means measures that prevent erosion.

Facility or activity means any TPDES "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the TPDES program.

Grading means excavation or fill of material, including the resulting conditions thereof.

Hazardous materials means any material, including any substance, waste, or combination thereof, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hydrologic soil group (HSG) means a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Illicit connection means either of the following:

(1) Any drain or conveyance connecting an illicit discharge directly to the stormwater system, whether on the surface or subsurface, which allows an illegal discharge to enter the stormwater system, including, but not limited to, any conveyances which allow any non-stormwater discharge, including sewage, process wastewater, and wash water, to enter the storm drain system and any connections to the storm drain system from indoor

drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Illicit discharge means any direct or indirect non-stormwater discharge to the stormwater system, except as exempted in division 2 of this article.

Impervious cover means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Industrial activity means activities subject to NPDES or TPDES industrial permits as defined in 40 CFR 122.26(b)(14).

Industrial stormwater permit means a state pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the process of percolating stormwater into the subsoil.

Infiltration facility means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land disturbance activity or *land disturbing activity* means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

Municipal separate storm sewer system (MS4) means a separate storm sewer system owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization.

Non-stormwater discharge means any discharge to the stormwater system that is not composed entirely of stormwater.

Nonpoint source pollution means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, construction, subsurface disposal and urban runoff sources.

NPDES means the National Pollutant Discharge Elimination System.

Off-site facility means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-site facility means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or

contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Redevelopment means any construction, alteration or improvement exceeding one acre in areas where existing land use is high density commercial, industrial, institutional or multifamily residential.

Sediment control means measures that prevent eroded sediment from leaving the site.

Site means a parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Site development permit means a permit issued by the city for construction or alteration of ground improvements and structures for the control of erosion, runoff and grading.

Stabilization means the use of practices that prevent exposed soil from eroding.

Stop work order means an order issued which requires that all construction activity on a site be stopped.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater management means the use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan (SWPPP or *SWP3)* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Stormwater retrofit means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff means flow on the surface of the ground, resulting from precipitation.

Stormwater system means the system or network of stormwater and surface water management facilities managed and maintained by the city, including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities and other components as well as all natural waterways.

Stormwater treatment practices (STPs) means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and waterbodies.

TPDES means the Texas Pollutant Discharge Elimination System.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

Watercourse means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water which are delineated by the city.

Waterway means a channel that directs surface runoff to a watercourse, or to the public storm drain system.

(Code 1994, § 78-227; Code 2005, § 86-341; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-342--86-360. Reserved.

DIVISION 2. ILLICIT DISCHARGE AND CONNECTION

Sec. 86-361. Purpose; intent.

The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the stormwater system to the maximum extent practicable as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit process. The objectives of this division are to:

(1) Regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;

(2) Prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(3) Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this division.

(Code 2005, § 86-361; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-362. Applicability.

This division shall apply to all water entering the stormwater system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Code 2005, § 86-362; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-363. Responsibility for administration.

The city manager or his/her designee shall administer, implement, and enforce the provisions of this division. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the city manager to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Code 2005, § 86-363; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-364. Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this division are minimum standards; therefore, this division does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(Code 2005, § 86-364; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-365. Discharge prohibitions.

(a) *Prohibition of illicit discharges*. It shall be unlawful for any person to discharge or cause to be discharged into the municipal stormwater system or watercourses any materials, including, but not limited to, pollutants, or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

(1) The commencement, conduct or continuance of any illicit discharge to the stormwater system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this division:

1. Flushing of water lines or other potable water sources;
2. Landscape irrigation or lawn watering, diverted streamflows;
3. Rising groundwater and springs;
4. Uncontaminated groundwater infiltration;
5. Uncontaminated pumped groundwater;
6. Foundation or footing drains (not including active groundwater dewatering systems);
7. Crawl space pumps, air conditioning condensate;
8. Individual residential vehicle washing;
9. Vehicle washing fundraising events by not-for-profit organizations;
10. Natural riparian habitat or wetland flows;
11. Pavement and exterior building wash water conducted without the use of detergents or other chemicals; and
12. Swimming pools (if dechlorinated; typically less than one parts per million (PPM) chlorine), firefighting activities, and any other water source not containing pollutants.

b. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

c. Dye testing, as long as a verbal notification is provided to the authorized enforcement agency prior to the time of the test.

d. Any non-stormwater discharge permitted under an NPDES or TPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that further written approval has been granted for any discharge to the stormwater system.

(b) *Prohibition of illicit connections.*

(1) It shall be unlawful to construct, use, maintain or continue the existence of illicit connections to the city's storm drain system.

(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.

(3) A person is considered to be in violation of this division if the person connects a line conveying sanitary sewage to the MS4, or allows such a connection to continue.

(Code 2005, § 86-365; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-366. Suspension of MS4 access.

(a) *Suspension due to illicit discharges in emergency situations.* The city manager or his/her designee may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present

imminent and substantial danger to the environment, the health or welfare of persons, the MS4, or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(b) *Suspension due to the detection of illicit discharge.* Any person discharging into the MS4 in violation of this division may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(c) *Reinstatement without permission.* A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Code 2005, § 86-366; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-367. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES or TPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city manager or his/her designee prior to allowing discharges to the MS4.

(Code 2005, § 86-367; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-368. Submission of notice of intent to city.

(a) The operator of a facility, including construction sites, required to have a NPDES or TPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the city manager or his/her designee at the same time the operator submits the original notice of intent to the EPA or the TCEQ as applicable. The copy of the notice of intent may be delivered to the city manager or his/her designee either in person or by mail.

(b) A person commits an offense if the person operates a facility that is discharging stormwater associated with industrial activity without having submitted a copy of the notice of intent to do so to the city manager or his/her designee.

(Code 2005, § 86-368; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-369. Monitoring of discharges.

(a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to facilities.*

(1) The city manager or his/her designee shall be permitted to enter and inspect facilities subject to regulation under this division as often as may be necessary to determine compliance with this division. If a facility has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Facility operators shall allow the city manager or his/her designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a NPDES or TPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

(3) The city manager or his/her designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The city manager or his/her designee has the right to require the facility to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city manager or his/her designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the city manager or his/her designee access to a permitted facility is a violation of a stormwater discharge permit and of this division. A person who is the operator of a facility with a NPDES or TPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this division.

(7) If the city manager or his/her designee has been refused access to any part of the premises from which stormwater is discharged, and he is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this division or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Code 2005, § 86-369; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-370. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will adopt policies identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the stormwater system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES or TPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES and/or TPDES permit.

(Code 2005, § 86-370; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-371. Watercourse protection.

Every landowner who owns property, or is responsible for maintaining an easement through which a watercourse passes, shall keep and maintain that part of the watercourse within the

property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the landowner shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Code 2005, § 86-371; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-372. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or other person responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the stormwater system, or waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city manager or his/her designee within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(Code 2005, § 86-372; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-373. Enforcement.

(a) *Notice of violation.* Whenever the city manager or his/her designee finds that a person has violated a prohibition or failed to meet a requirement of this division, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

(b) *Notice for remediation and deadline.* If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Code 2005, § 86-373; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-374. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency to the city manager or his/her designee. The notice of appeal must be received within two days from the date of the notice of violation. Hearing on the appeal before the city

manager or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the city manager or his/her designee shall be final.

(Code 2005, § 86-374; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-375. Enforcement measures after appeal.

If any violation of which a person has received notice as required by section 86-373 has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within ten days of the decision of the city manager or his/her designee upholding the decision, then representatives of the authorized enforcement agency shall enter upon the subject private property and take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the authorized enforcement agency or its designated contractor to enter upon the premises for the purposes set forth above.

(Code 2005, § 86-375; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-376. Cost of abatement of the violation.

In the event of action by the authorized enforcement agency as described in section 86-375, the owner of the property will be notified of the cost of abatement, including administrative costs, within 30 days after the abatement of the violation. The property owner may file a written protest objecting to the amount of the assessment within ten days. If the amount due is not paid within a timely manner as determined by the decision of the city manager or his/her designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Code 2005, § 86-376; Ord. No. 2005-01, § 2, 12-6-2004)

Secs. 86-377--86-390. Reserved.

DIVISION 3. EROSION AND SEDIMENT CONTROL

Sec. 86-391. Introduction/purpose.

(a) During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causes the silting of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of waterways. In addition, clearing grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for citizens of the city.

(b) The purpose of this division is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the city.

(Code 2005, § 86-391; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-392. Permits.

It shall be unlawful for any person to conduct any land disturbing activity without a permit issued by the city manager or his/her designee.

(1) No person shall be granted a permit for land disturbing activity which would require the uncovering of one acre or more, without the approval of an erosion and sediment control plan by the city manager or his/her designee.

(2) An erosion and sediment control plan is not required for the following activities:

a. Any emergency activity immediately necessary for the protection of life, property or natural resources; or

b. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(3) Each application for a permit to allow land disturbing activities shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan, and that a site operator shall be on site on all days where construction or grading activity takes place.

(Code 2005, § 86-392; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-393. Review and approval.

The city manager or his/her designee will review each erosion and sediment control plan to determine its conformance with the provisions of this local regulation. The city manager or his/her designee shall, in writing:

(1) Approve the plan;

(2) Approve the plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the approval subject to these conditions; or

(3) Disapprove the plan, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(Code 2005, § 86-393; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-394. Design requirements.

Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the city's design criteria manual, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city manager or his/her designee.

(Code 2005, § 86-394; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-395. Modifications to the plan.

Major amendments of the erosion and sediment control plan shall be submitted to the city manager or his/her designee and shall be processed and approved, or disapproved, in the same manner as the original plans. Field modifications of a minor nature may be authorized by the city manager or his/her designee by written authorization to the permittee.

(Code 2005, § 86-395; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-396. Clearing and grading.

Clearing and grading activities shall not be permitted, except when in compliance all other chapters of this Code. Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the stormwater design manual, shall be used to the satisfaction of the city manager or his/her designee.

(Code 2005, § 86-396; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-397. Inspection.

(a) The city manager or his/her designee shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee that the work fails to comply with the erosion and sediment control plan as approved. Plans for grading,

stripping, excavating, and filling work bearing the stamp of approval of the city manager or his/her designee shall be maintained at the site during the progress of the work.

(b) The permittee or his agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plans. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for additional control measures. All inspections shall be documented in written form and submitted to the city manager or his/her designee at the time interval specified in the approved permit.

(c) The city manager or his/her designee shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under the above mentioned section.

(Code 2005, § 86-397; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-398. Stop work order; revocation of permit.

In the event that any person holding a site development permit pursuant to this division violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city manager or his/her designee may suspend or revoke the site development permit, in addition to any other penalty provisions contained in this division.

(Code 2005, § 86-398; Ord. No. 2005-01, § 2, 12-6-2004)

Secs. 86-399--86-410. Reserved.

DIVISION 4. POST CONSTRUCTION STORMWATER RUNOFF

Sec. 86-411. General provisions.

(a) *Findings of fact.* It is hereby determined that:

(1) Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;

(2) This stormwater runoff contributes to increased quantities of water-borne pollutants; and

(3) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the city establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

(b) *Purpose.* The purpose of this division is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This division seeks to meet that purpose through the following objectives:

(1) Minimize increases in stormwater runoff from any development in order to reduce flooding, silting, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;

(2) Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality;

(3) Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable; and

(4) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

(c) *Applicability.* This division shall be applicable to all subdivision or site plan applications, unless eligible for an exemption by the city manager or his/her designee under the specifications of this division. The division also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must also ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

(1) To prevent the adverse impacts of stormwater runoff, the city has developed a set of performance standards that must be met at new development sites. These standards apply to any construction activity disturbing one or more acres of land. The following activities may be exempt from these stormwater performance criteria:

a. Additions or modifications to existing single-family structures;

b. Developments that do not disturb more than one acre of land, provided they are not part of a larger common development plan; or

c. Repairs to any stormwater treatment practice deemed necessary by the city manager or his/her designee.

(2) When a site development plan is submitted that qualifies as a redevelopment project as defined in this division, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current stormwater design manual. This criterion is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the city manager or his/her designee.

(d) *Design criteria manual.* The design criteria manual includes a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the city, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria shall meet the minimum water quality performance standards.

(Code 2005, § 86-411; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-412. Permit procedures and requirements.

(a) *Permit required.* No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this division prior to commencing the proposed activity.

(b) *Application requirements.* Unless specifically excluded by this division, any landowner or land operator desiring a permit for a land disturbance activity shall submit to the city manager or his/her designee a permit application on a form provided for that purpose.

(Code 2005, § 86-412; Ord. No. 2005-01, § 2, 12-6-2004)

Sec. 86-413. Exemptions to stormwater management requirements.

Exemptions for providing stormwater management are as follows:

(1) Every applicant shall provide for stormwater management as required by this division, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the city manager or his/her designee for approval.

(2) The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

a. It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this division;

b. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the city manager or his/her designee and the implementation of the plan is required by local ordinance;

c. Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice; or

d. Nonstructural practices will be used on the site to reduce:

1. The generation of stormwater from the site;

2. The size and cost of stormwater storage; and

3. The pollutants generated at the site.

These nonstructural practices will be explained in detail in the stormwater design manual and the amount of credit available for using such practices shall be determined by the city manager or his/her designee.

(3) In instances where one of the conditions above applies, the city manager or his/her designee may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the city manager or his/her designee that the variance will not result in the following impacts to downstream waterways:

a. Deterioration of existing culverts, bridges, and other structures;

b. Degradation of biological functions or habitat;

c. Accelerated stream bank or streambed erosion or silting; or

d. Increased threat of flood damage to public health, life, property.

(Code 2005, § 86-413; Ord. No. 2005-01, § 2, 12-6-2004)

Chapters 87--89

RESERVED

Chapter 90

VEHICLES FOR HIRE*

***State law reference**—Authority to regulate vehicles for hire, V.T.C.A., Local Government Code § 215.073.

ARTICLE I. IN GENERAL

Secs. 90-1--90-18. Reserved.

ARTICLE II. TOWING COMPANY*

***Federal law references**--Federal law preempts local government regulation relating to price, route or service of any motor carrier respecting transportation of property, 49 USC 14501(c)(1); safety regulations by local governments are not preempted, 49 USC 14501(c)(2)(A); regulation of price of for-hire tows performed without prior consent of owner, exempt from preemption, 49 USC 14501(c)(2)(C).

State law reference—Tow truck regulation by political subdivisions, V.T.C.A., Occupations Code § 2308.201 et seq.; authority for regulation by political subdivisions of fees for nonconsent tows, V.T.C.A., Occupations Code § 2308.203; notification, impoundment and storage fees for vehicle storage facilities, V.T.C.A., Occupations Code § 2303.155.

DIVISION 1. GENERALLY

Sec. 90-19. 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:

Consent tow means any tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term "consent tow" does not include an incident management tow or a private property tow.

Nonconsent tow means any tow of a motor vehicle that is not a consent tow, including:

(1) An incident management tow; and

(2) A private property tow.

Operate means to use a tow truck to move a vehicle.

Permit holder means any person, corporation, limited liability company, limited liability partnership, partnership, or other entity created by the state or any other state, which has been issued a valid towing company permit from the city authorizing performance of nonconsent tows within the corporate limits of the city in accordance with this article.

Police-authorized tow means a nonconsent tow and the towing of a vehicle when authorized by any police officer of the city rather than by the owner or person in possession of such vehicle, under circumstances of recovery of a stolen vehicle, removal of an abandoned, wrecked, illegally parked, or disabled vehicle, a custodial arrest where the owner or person in possession of the vehicle is incapable of making arrangements for removal of the vehicle, or any other circumstance where a police officer, in his official capacity, authorizes the towing of a vehicle and the owner or person in possession is not present or is not capable of making a determination with respect to such removal.

Preservation means the methods customarily used to protect the interior of a vehicle from weather when the windows of such vehicle are damaged.

Tow means the act of transporting or moving an inoperable, damaged, or otherwise disabled vehicle by means of hauling, pulling, winching, or otherwise.

Tow truck means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term "tow truck" does not include:

(1) A motor vehicle owned and operated by a governmental entity, including a public school district;

(2) A motor vehicle towing:

a. A race car;

b. A motor vehicle for exhibition; or

c. An antique motor vehicle;

(3) A recreational vehicle towing another vehicle;

(4) A motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;

(5) A motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle; or

(6) A motor vehicle that:

a. Is owned or operated by an entity the primary business of which is the rental of motor vehicles; and

b. Only tows vehicles rented by the entity.

Tow truck driver means a person who operates a tow truck on the streets of the city, whether on his own account or in the employ of another.

Tow truck owner means any person who is engaged in the operation of a towing service and is the holder of a valid permit to operate such tow truck within the city.

Tow truck permit means a permit to be issued annually by the city, which authorizes the holder thereof to answer calls from the police department for police-authorized tows pursuant to a police-authorized tow agreement and nonconsent tows.

Towing company means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state, but does not include a political subdivision of the state.

Vehicle means a device in, on, or by which a person or property may be transported on a public roadway. The term "vehicle" includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer, but does not include a device moved by human power or used exclusively on a stationary rail or track.

Vehicle storage facility means a vehicle storage facility situated within the city, or within five miles of the city, that is operating under a current and valid license granted pursuant to the Vehicle Storage Facility Act (V.T.C.A., Occupations Code § 2303.001 et seq.), and that is in compliance with all state rules and regulations governing vehicle storage facilities, as well as all city ordinances affecting same.

(Code 1994, § 82-26; Code 2005, § 90-19; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-20. Permit required for nonconsent tows.

All towing companies used for performing nonconsent tows within the city shall have a valid tow truck permit issued by the city and all tow truck drivers must have a valid state tow truck operator's license.

(Code 1994, § 82-27; Code 2005, § 90-20; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-21. Nonconsent tows; notice.

(a) Whenever a person other than the registered owner or person in possession of a vehicle authorizes the tow of a vehicle, that person or his agent shall make an oral report to the city's police department within one hour of the time the vehicle was towed, which report shall include the following information:

(1) The license plate of the towed vehicle;

(2) The vehicle identification number of the towed vehicle;

(3) The year, make, model, and color of the towed vehicle;

(4) The name, address, primary e-mail address and telephone number of the person authorizing the tow;

(5) The location from which the vehicle was towed, the date and time of the tow, and the name, street address, primary e-mail address and telephone number of the vehicle storage facility to which the vehicle was taken; and

(6) The reason the vehicle was towed.

(b) In the case of a nonconsent tow, the tow truck driver shall, as soon as reasonably possible, disclose in writing to an owner or his representative:

(1) The location to which the vehicle is being towed;

(2) The telephone number at which information may be obtained regarding the vehicle and any applicable storage fees; and

(3) The name of the person or persons to whom complaints against the permitted auto wrecker drivers may be directed, if requested.

(c) The chief of police shall ensure that appropriate records are maintained on vehicles taken in nonconsent tows so owners of such vehicles may obtain information from the city's police department regarding the location of a towed vehicle.

(Code 1994, § 82-28; Code 2005, § 90-21; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-22. Police-authorized tows.

(a) No towing company may perform police-authorized tows unless authorized by a contract executed under this section.

(b) The chief of police may execute agreements to perform police-authorized tows with persons or companies that hold tow truck permits. The right to enter into such agreements shall be extended on a uniform basis to all eligible persons who own or operate permitted towing companies. Such agreements shall be upon such terms and conditions as approved by the city council.

(c) The chief of police shall not enter into an agreement on behalf of the city with any towing company if the company, or any employee or owner of the permit holder (including partners of a partnership and stockholders of a corporation), has had an agreement hereunder terminated for cause within the preceding five years. The foregoing provision shall apply to agreements that are not renewed or are terminated by the operator under threat of termination for cause in the same manner as those that have actually been terminated for cause.

(d) The applicant for a police-authorized tow agreement under this section shall have the right to appeal the decision of the chief of police denying such application to the city council within ten days, which appeal shall be perfected by delivering seven copies of same, in writing, to the city council, stating that an appeal of the decision of the chief of police is desired and the facts regarding same. The city council will schedule a hearing as soon as practicable after receiving the

notice of appeal. After hearing the appeal, the city council shall, within a period of five days, sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police within the time provided above, the decision of the chief of police shall be final; otherwise, the decision of the city council shall become final.

(Code 1994, § 82-29; Code 2005, § 90-22; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-23. Parking upon arrival.

(a) Whenever a tow truck arrives at a place where a vehicle is wrecked or disabled, the tow truck driver shall park his vehicle as close to the street curb as possible and otherwise dispose of it in such a manner as not to interfere with traffic. Once a police officer arrives on the scene, the tow truck driver shall park his vehicle in the location directed by the officer.

(b) The fact that a police officer is not present at the scene of an accident when a tow truck driver arrives shall not constitute an exception to this section nor any other section, and it shall be the duty of the tow truck owner or driver desiring to tow or haul any wrecked or disabled vehicles from the scene of an accident to cause the police to be notified of the occurrence of the accident and to await the arrival of a police officer, if such accident resulted in injury or death of a person, property damage to an apparent extent of at least $500.00, or damage to public property.

(Code 1994, § 82-30; Code 2005, § 90-23; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-24. Designation of towing company.

(a) Upon arrival at the scene of a wrecked or disabled vehicle, the police officer shall determine if a police-authorized tow is necessary. If a police-authorized tow is necessary, the police officer shall advise dispatch and a rotation list shall be utilized to dispatch the required number of tow trucks to the scene.

(b) If the owner or driver of a vehicle that is wrecked or disabled has a tow truck preference, that request will be honored unless it would cause undue delay and immediate towing is unnecessary. Any towing company may tow the vehicle at the owner's or driver's request, as long as such company has a valid state tow tag and cab card. If the wrecked or disabled vehicle has any part or portion thereof upon the roadway, the tow truck driver responding to the owner's or driver's request shall have 15 minutes to arrive at the scene and remove such vehicle, or any part thereof, or such shorter period of time if, in the discretion of the police officer on the scene, such shorter period of time is necessary to protect the safety and welfare of the public; otherwise, the vehicle may be towed pursuant to a police-authorized tow.

(Code 1994, § 82-31; Code 2005, § 90-24; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-25. Required equipment.

The following equipment is required on every tow truck performing nonconsent tows within the city:

(1) Fire extinguisher, being defined as that piece of equipment commonly carried to extinguish fires caused as a result of an auto accident or collision. Such fire extinguisher shall be the standard BC type, either one ten-pound or two five-pound fire extinguishers with a gauge, properly filled and readily accessible for use.

(2) Three flares, each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime.

(3) One broom of a type designed for pushing with an 18-inch head and a handle of not less than 36 inches in length.

(4) No less than five gallons of dry sand or other absorbent which is at least as effective as sand in absorbing liquid.

(5) One five-gallon container to carry glass and debris cleaned from streets when picking up a wrecked vehicle.

(6) One flat-edged shovel of at least nine inches in width, with a handle of not less than 36 inches in length.

(7) One wrecking bar of not less than 36 inches in length with a wedge head.

(8) At least one flashing light visible within 500 feet from a 360-degree radius.

(9) If the vehicle being towed does not have functional taillights, temporary lighting must be provided.

(10) If the tow truck is a heavy-duty tow truck, it must be equipped with a winch capable of lifting a minimum of 30,000 pounds. If one winch line is used, it shall be at least three-fourths of an inch in diameter; if two winch lines are used, each shall be at least five-eighths-inch in diameter. Additionally, a heavy-duty tow truck shall be equipped with an "A" frame capable of being used for lifting vehicles, trucks, trailers, or equipment, air brakes and air lines, and must have a tow bar sufficient to prevent the swinging of any vehicles or equipment being transported by such heavy-duty tow truck.

(Code 1994, § 82-32; Code 2005, § 90-25; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-26. Clearing debris.

(a) It shall be the duty of the tow truck driver of each tow truck that picks up a wrecked or disabled vehicle for the purpose of towing, to clear the street of any and all debris, parts, or glass. In the event two or more tow trucks pick up vehicles for towing, it shall be the duty of each driver to clear the street of debris, parts, or glass.

(b) Any other person who removes a wrecked or disabled vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(Code 1994, § 82-33; Code 2005, § 90-26; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-27. Charges, police-authorized and nonconsent tows.

(a) The maximum charges that a towing company may charge for a police-authorized or nonconsent tow shall be set by resolution and printed in Appendix D to this Code.

(b) All charges shall be listed on the tow truck's invoice and the permit holder shall maintain, at the permit holder's place of business, copies of all invoices pertaining to nonconsent and police-authorized towing services for a period of two years from the invoice date. Any police officers may inspect such invoices during regular business hours. Every invoice required to be kept under this section shall contain the towed vehicle's description by make, model, year, license number, and name of the tow truck driver in addition to charges incurred. Every invoice for a nonconsent tow shall include the above information along with the name, address, primary e-mail address and phone number of the person authorizing the tow, and the reason the vehicle was towed, and the name, street address, primary e-mail address and telephone number where the vehicle was taken for storage. Every invoice for police-authorized tows shall also include the name and badge number of the police officer that authorized the tow.

(Code 1994, § 82-34; Code 2005, § 90-27; Ord. No. 2002-13, § 2, 7-1-2002)

Secs. 90-28--90-57. Reserved.

DIVISION 2. TOW TRUCK SERVICE PERMITS

Sec. 90-58. Application.

Any company desiring to perform nonconsent tows within the city shall make application to the chief of police for a tow truck service permit, which application shall be submitted on a form provided by the chief of police, and signed and notarized. Each application shall contain the following information:

(1) A statement that the applicant has attained the age of 18 years.

(2) For each auto wrecker company for which a permit is sought, the applicant shall provide the following information:

a. Year and make;

b. Vehicle identification number;

c. Current state license plate number;

d. Name, address, primary e-mail address and telephone number of the tow truck's owner; and the name, address, primary e-mail address and operator's license number for each person who will be an operator of each such tow truck;

e. A certificate of insurance evidencing the type and amounts of coverage as required and specified by section 90-67;

f. A signed statement agreeing to comply with the tow truck service and vehicle storage fees established by the city;

g. A signed statement disclosing what, if any, pecuniary interest the tow truck operator may have in any person or entity that repairs or sells motor vehicles within the city;

h. A true and correct copy of the current tow truck vehicle registration for each tow truck;

i. If the applicant is a corporation, a certificate of good standing issued by the Secretary of State of the State of Texas;

j. A statement of the fees the applicant proposes to charge for nonconsent tows, including fees, if any, for special towing services or equipment; and

k. A copy of a valid license issued pursuant to the Texas Vehicle Storage Facility Act, V.T.C.A., Occupations Code § 2303.001 et seq., for the storage facility the applicant proposes to use.

(3) If an applicant is a corporation, limited liability corporation, limited liability partnership, partnership, or any other entity created within the state or any other state, or proposes to operate under a name other than that of the applicant owner, the names and addresses of the corporate officers, partners, or the true business owner. A tow truck service permit issued to one such entity is not transferable to another without the written approval of the chief of police.

(Code 1994, § 82-51; Code 2005, § 90-58; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-59. Fee.

(a) The application for a tow truck service permit required by the provisions of this division shall be accompanied by the first annual permit fee as set out in Appendix D to this Code. There shall be one fee paid by each towing company that desires a permit, regardless of the number of tow trucks such company operates pursuant to the permit.

(b) Each such permit fee shall be paid annually, and must be paid not less than 30 days prior to expiration of such permit.

(Code 1994, § 82-52; Code 2005, § 90-59; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-60. Permit application hearing; considerations as to public convenience and necessity of applied for service.

(a) Each application filed shall be subject to review and public hearing at a time and place to be determined by the chief of police. Notice of such hearing shall be given to the applicant and to all persons to whom permits have already been issued. Notice to the general public shall be given by posting such notice at city hall not less than ten days prior thereto.

(b) In determining whether a permit will be issued to an applicant, the chief of police shall consider whether public convenience and necessity require the issuance of such permit. The determination may take into consideration the following:

(1) The demonstrated financial responsibility of the applicant;

(2) The number of vehicles the applicant proposes to operate;

(3) Whether the applicant has ever been convicted of any related felony or misdemeanor, as described in V.T.C.A., Government Code §§ 411.122 and 411.123;

(4) The make, model, and type of tow trucks and how each such tow truck is to be equipped;

(5) The location, size, and security afforded to each such vehicle storage facility to be used for towed vehicles;

(6) The reasonableness of fees proposed for towing and storage services by the applicant, and whether such fees comply with the schedule of fees therefor, as established from time to time by city council;

(7) Whether the towing company or the tow truck for which a permit is sought will be operated by the owner or by his employees, within the context of a bona fide employment relationship;

(8) Whether the applicant proposes to own, rent, or lease the tow truck to be used;

(9) Whether the applicant proposes to own, rent, or lease the vehicle storage facility to be used; and

(10) Whether public convenience and necessity will be met by issuance of an additional permit for the provision of tow truck services within the city.

(Code 1994, § 82-53; Code 2005, § 90-60; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-61. Time limitation on new application after denial.

An applicant denied a permit by the chief of police or by the city manager on appeal shall not be considered again for a permit for a period of one year from the date of the prior application.

(Code 1994, § 82-54; Code 2005, § 90-61; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-62. Special reporting requirements for created entities.

A permit holder doing business as a partnership, corporation, limited liability partnership, limited liability company, or any other form of entity created and recognized by state law, or by the law of any other state, shall be required to report, in writing, to the chief of police of any change in the ownership, directorship, or official management of such entity within ten days of such change. Failure to report any such changes shall be cause for immediate suspension or revocation of the permit held by the entity.

(Code 1994, § 82-55; Code 2005, § 90-62; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-63. Immediate storage of vehicles required; exception.

All vehicles towed by a tow truck permit holder shall be taken immediately to the permit holder's approved vehicle storage facility, unless instructed by a police officer or the owner of the vehicle to deliver the vehicle to another location.

(Code 1994, § 82-56; Code 2005, § 90-63; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-64. Hours of operation for vehicle storage facility.

A permit holder shall be responsible for maintaining and operating a vehicle storage facility so that vehicles may be received and released during the specified times required pursuant to the Texas Vehicle Storage Facility Act, V.T.C.A., Occupations Code § 2303.001 et seq.

(Code 1994, § 82-57; Code 2005, § 90-64; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-65. Removal of vehicle from accident scene.

No damaged or inoperative vehicle shall be removed from the scene of an accident by its owner or by a tow truck service, without first notifying the police department.

(Code 1994, § 82-58; Code 2005, § 90-65; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-66. Solicitation.

No employee of the city shall recommend to any person, directly or indirectly, either by word or gesture, sign, or otherwise, the name of any particular tow truck service, nor shall any city employee influence or attempt to influence in any manner a decision of a person in choosing or selecting a tow truck service.

(Code 1994, § 82-59; Code 2005, § 90-66; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-67. Insurance.

(a) Before any permit shall be issued under the provisions of this division, or before any renewal of such permit shall be granted, the applicant or permittee shall be required to file with the chief of police, and keep in full force and effect during the term of such permit, satisfactory evidence that the applicant or permittee has provided proof of financial responsibility to the state department of public safety, as that term is defined in the Texas Motor Vehicle Safety Responsibility Act (V.T.C.A., Transportation Code § 601.002 et seq.), and has complied with the provisions of such Act, as currently enforced or hereafter amended.

(b) The chief of police is authorized to promulgate reasonable regulations as to the type and character of evidence that shall be required to show that the applicant or permittee has provided proof of financial responsibility to the state department of public safety. If such proof of financial responsibility is evidenced by an insurance policy, such policy shall be carried with an insurance company authorized to do business in the state and performable in Harris and Galveston Counties. The chief of police shall suspend, cancel, or revoke any auto wrecker permit, without further notice to the applicant or permittee, if financial responsibility is found to not be in full force and effect at any time.

(c) The insurance required by this section shall be for limits of not less the minimum required by state law. Proof of insurance shall be in the form of a certificate of insurance issued to the city and must be attached to the tow truck permit application.

(Code 1994, § 82-60; Code 2005, § 90-67; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-68. Issuance.

After the applicant has filed a tow truck permit application, permit fee, and certificate of insurance, and the chief of police has examined the same and found them to be in compliance with

the terms of this division, and such application has been approved by the chief of police, the permit shall be issued to the applicant the appropriate permit to operate a tow truck within the city.

(Code 1994, § 82-61; Code 2005, § 90-68; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-69. Contents.

Every permit issued under the provisions of this division shall be dated and numbered, shall bear upon its face a notice that the same expires one year from the date of issuance, and shall show the make, model, motor number, and state license number of each tow truck permitted to operate within the city and, where the applicant has entered into a police-authorized tow agreement with the city, the tow truck decal or license tag given to it by the chief of police.

(Code 1994, § 82-62; Code 2005, § 90-69; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-70. Replacement of vehicle.

Whenever a permittee wishes to discontinue the use of a tow truck during the period covered by a permit and replace such tow truck with another, the permittee shall file an affidavit stating that the use of the tow truck covered by the permit has been discontinued, and that the tow truck owner desires to use another tow truck in its place. A certificate from the permit holder's surety or insurer shall be attached to the affidavit evidencing that such surety or insurer has been notified thereof and agrees thereto. The chief of police shall then issue to the permittee a supplemental permit covering the new tow truck and cause the description of the old tow truck to be canceled from the original permit. In the affidavit, the certificate from the surety or insurer, and the supplemental permit, the old and new tow trucks shall be described by make, model, motor number, state tow tag number, state license number, and decal or license tag, if applicable.

(Code 1994, § 82-63; Code 2005, § 90-70; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-71. Rules; regulations.

The chief of police is empowered to prescribe rules and regulations for displaying signs on tow trucks showing that the same have been licensed as herein provided. The name, address, and telephone number of the permit holder shall be clearly visible and shall, at a minimum, meet the following requirements:

(1) The name and telephone number of the permit holder shall be in letters not less than three inches in height and located on all doors of the tow truck.

(2) The address of the permit holder shall be in letters not less than two inches in height and located on the doors of the tow truck.

(Code 1994, § 82-64; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-72. Expiration.

All permits issued under the provisions of this division are nontransferable and shall be valid for a period of one year from the date of issuance.

(Code 1994, § 82-65; Code 2005, § 90-72; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-73. Revocation.

A permit issued under the provisions of this division may be denied, suspended, canceled, or revoked by order of the chief of police for any of the following reasons:

(1) The permit holder has not been in compliance with the requirements of this division at any time since the permit has been issued;

(2) The permit holder has committed any violation of state law regulating tow trucks;

(3) The permit holder has committed any violation of city ordinances regulating tow trucks;

(4) The permit holder has violated any rules or regulations issued by the authority of the chief of police;

(5) There have been three or more violations of city ordinances regulating tow trucks within any one-year period by any one tow truck driver operating a tow truck of the permit holder or by any other agents or employees of the permit holder;

(6) There have been four or more moving violations of the motor vehicle laws of the state within any one year by any one driver while operating a tow truck of the permit holder;

(7) The permit holder knowingly supplied false or incomplete information to obtain or maintain a permit;

(8) The permit holder has been convicted of a felony or placed on probation within the last three years, or convicted of a crime involving moral turpitude within the last ten years; or

(9) The permit holder, or his agent or employee, fails to respond to tow truck calls from the city's police department in such a manner as to create unnecessary delays in the removal of wrecked or disabled vehicles from the roadway.

(Code 1994, § 82-66; Code 2005, § 90-73; Ord. No. 2002-13, § 2, 7-1-2002)

Sec. 90-74. Appeal.

An applicant for a permit under this division shall have the right to appeal the decision of the chief of police to the city council within ten days of receipt of the notice denying such permit, which appeal shall be perfected by delivering, in writing, seven copies of same to the city council, stating that an appeal from the decision of the chief of police is desired and the facts regarding same. The city council will schedule a hearing as soon as practicable after receiving such notice of appeal, grant a hearing thereon, and after the hearing of the appeal shall, within a period of five days, sustain or reverse the decision of the chief of police. If no appeal is taken from the findings made by the chief of police within the time provided above, the decision of the chief of police shall be final; otherwise, the decision of the city council shall become final.

(Code 1994, § 82-67; Code 2005, § 90-74; Ord. No. 2002-13, § 2, 7-1-2002)

Chapters 91--93

RESERVED

Chapter 94

WATERWAYS*

***State law reference**—Municipal authority concerning public waters within corporate limits, V.T.C.A., Parks and Wildlife Code § 31.092.

ARTICLE I. IN GENERAL

Secs. 94-1--94-18. Reserved.

ARTICLE II. BOATS

Sec. 94-19. Personal watercraft.

(a) No person shall operate a personal watercraft in the following manner or under the following circumstances:

(1) Unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V personal flotation device;

(2) If the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing, or personal flotation device of the operator as appropriate for the vessel involved;

(3) During the period between sunset and sunrise;

(4) Within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed;

(5) If the operator is under 13 years of age unless the operator is supervised by another person who:

a. Is at least 18 years of age;

b. Can lawfully operate the watercraft; and

c. Is on board the watercraft when under way;

(6) If the personal watercraft is a motorboat, within any area prohibited for operation of a motorboat by state law or local rule or regulation;

(7) While towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the towing vessel is designed to carry on board a minimum of two persons;

(8) By jumping the wake of another vessel recklessly or unnecessarily close to that vessel; or

(9) In a manner that requires the operator to swerve at the last possible moment to avoid collision.

(b) The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament, or exhibition.

(c) Subsection (a)(4) of this section does not prohibit the operation of personal watercraft on bodies of water less than 100 feet in width.

(d) An owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a manner prohibited by this section may be notified of the violation.

(e) For the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.

(Code 1994, § 86-75; Code 2005, § 94-19)

Sec. 94-20. Operation of motorboat.

No person may operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of this city unless the person is at least 13 years of age or is supervised by another person who:

(1) Is at least 18 years of age;

(2) Can lawfully operate the motorboat; and

(3) Is on board the motorboat when underway.

(Code 1994, § 86-76; Code 2005, § 94-20)

Sec. 94-21. No wake zone.

No person may operate a motorboat so as to create a wake in a no wake zone. The chief of police may designate a no wake zone on any public water in the city. No wake zones shall be designated by a no wake sign or by buoy approved by the chief of police.

(Code 1994, § 86-77; Code 2005, § 94-21)

Secs. 94-22--94-45. Reserved.

ARTICLE III. RESTRICTED ACTIVITIES

Sec. 94-46. Jumping from structure.

No person may jump, leap, fall or swing from any publicly owned structure into the waters of this city.

(Code 1994, § 86-86; Code 2005, § 94-46)

Secs. 94-47--94-65. Reserved.

ARTICLE IV. WATER SAFETY

Sec. 94-66. General provisions.

(a) *Title*. This article may be cited as the "Water Safety Ordinance."

(b) *Policy*. It is the policy of this city to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the city; to promote safety in the operation and equipment of facilities; and to promote uniformity of laws relating to water safety.

(c) *Definitions*. The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Boat means a vessel not more than 65 feet in length, measured from the tip of the bow in a straight line to the stern.

Dealer means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motorboats, or outboard motors during a calendar year.

Manufacturer means a person engaged in the business of manufacturing new and unused vessels and outboard motors for the purpose of sale or trade.

Motorboat means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

New means every vessel or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.

Operate means to navigate or otherwise use a motorboat or a vessel.

Outboard motor means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.

Owner means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.

Personal watercraft means a motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

Reasonable time means 15 days.

Vessel means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

Water of this city means any public water within the territorial limits of this city.

(d) *Application of article*. The provisions of this article apply to all public water in this city and to all vessels on public water. Privately owned water is not subject to the provisions of this article.

(Code 1994, § 86-101; Code 2005, § 94-66; Ord. No. 2000-31, § 1, 9-11-2000)

Sec. 94-67. Required equipment.

(a) *Operation of vessels without required equipment prohibited*. No person may operate or give permission for the operation of a vessel that is not provided with the equipment required by this article.

(b) *Classes of motorboats*. Motorboats subject to the provisions of this article are divided into four classes according to length, as follows:

(1) Class A: Less than 16 feet in length.

(2) Class 1: Sixteen feet or over and less than 26 feet in length.

(3) Class 2: Twenty-six feet or over and less than 40 feet in length.

(4) Class 3: Forty feet in length or over.

(c) *Lights*. A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by the commandant of the U.S. Coast Guard for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.

(d) *Whistles; bell*. A motorboat must have an efficient whistle or other sound-producing device if one is required by the commandant of the U.S. Coast Guard.

(e) *Life preserving devices*.

(1) A motorboat, including a motorboat carrying passengers for hire, must carry at least one wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.

(2) The operator of a motorboat less than 26 feet in length, while underway, shall require every passenger under 13 years of age to wear a wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

(3) A person may not operate a recreational vessel 16 feet or more in length unless the vessel is equipped with:

a. The number of wearable personal flotation devices required under subsection (e)(1) of this section; and

b. Additionally, at least one immediately accessible Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(4) A person under 13 years of age on board a vessel described by subsection (k) of this section must wear a wearable personal flotation device of the sort prescribed by the commandant of the Coast Guard while the vessel is under way.

(5) An adult operator of a vessel described by subsection (k) of this section may not permit a person under 13 years of age to be on board the vessel while the vessel is under way if the person under 13 years of age is not wearing a wearable personal flotation device required by subsection (e)(4) of this section.

(f) *Fire extinguishers*.

(1) A motorboat must have the number, size, and type of fire extinguishers prescribed by the regulations of the commandant of the U.S. Coast Guard.

(2) The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.

(g) *Flame arrestors; backfire traps*. A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by the regulations of the commandant of the U.S. Coast Guard.

(h) *Ventilators*. Each motorboat and vessel, except an open boat, using as fuel any liquid of a volatile nature must have the equipment prescribed by the regulations of the commandant of the U.S. Coast Guard designed to ventilate properly and efficiently the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.

(i) *Exhaust water manifold; muffler*. A motorboat operating on the water in this city must have an exhaust water manifold or a factory-type muffler installed on the engine.

(j) *Rearview mirrors*.

(1) A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the water in this city must have a rearview mirror of a size no less than four inches from bottom to top and across from one side to the other. The mirror must be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.

(2) Subsection (j)(1) of this section does not apply to vessels used in water ski tournaments, competitions, or exhibitions, or to a vessel that, in addition to its operator, has onboard a person 13 years of age or older observing the progress of the person being towed.

(k) *Canoes, punts, rowboats, sailboats, and rubber rafts; racing shells, rowing sculls, and racing kayaks; equipment exemptions.*

(1) All canoes, kayaks, punts, rowboats, sailboats, rubber rafts, and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements, except each vessel must have the following:

a. One Coast Guard approved wearable personal flotation device for each person aboard; and

b. The lights prescribed by the commandant of the Coast Guard for vessels and required under subsection (c) of this section.

(2) Notwithstanding subsection (k)(1) of this section, a vessel described by that subsection, except a canoe or kayak, that is 16 feet or more in length must be equipped with at least one Type IV personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(3) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the Coast Guard for vessels and required under subsection (c) of this section.

(4) In this section, "racing shell," "rowing scull," or "racing kayak" means a manually propelled boat:

a. Recognized by a national or international racing association for use in competitive racing;

b. Not designed or used to carry equipment serving any purpose other than competitive racing; and

c. In which each occupant, except a coxswain, rows, sculls, or paddles.

(Code 1994, § 86-102; Code 2005, § 94-67; Ord. No. 2000-31, § 1, 9-11-2000)

Sec. 94-68. Boating regulation.

(a) *Rules of the road.* The United States Coast Guard Inland Rules apply to all public water of this city to the extent they are applicable.

(b) *Reckless or negligent operation.* No person shall operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a willfully or wantonly reckless or negligent manner that endangers the life, limb or property of any person.

(c) *Excessive speed.* No person shall operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.

(d) *Reckless operation and excessive speed.* No person shall operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water located within municipal boundaries in willful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.

(e) *Hazardous wake or wash.* No person shall operate a motorboat so as to create a hazardous wake or wash.

(f) *Circular course around fisherman or swimmer.*

(1) No person may operate a motorboat in a circular course around:

a. Any other boat or personal watercraft any occupant of which is engaged in fishing, water-skiing, or a similar activity; or

b. Any person swimming.

(2) Subsection (f)(1) of this section does not apply to a person operating a motorboat in a circular course to retrieve a downed or fallen water-skier or other person engaged in a similar activity.

(3) No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.

(g) *Operating boats in restricted area*. No person shall operate a boat within a water area that has been clearly marked, by buoys or some other distinguishing device, as a bathing, fishing, swimming, or otherwise restricted area designated by the state, the city, or another political subdivision of this state. This subsection does not apply to a patrol or rescue craft or in any case of any emergency.

(h) *Operating vessels in scuba diving or snorkeling areas*.

(1) No person shall operate a vessel within 50 feet of a buoy or of another vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(2) No person may operate a vessel at a speed greater than the minimum speed necessary to maintain steerageway and headway while the vessel is within 150 feet of a buoy or a vessel displaying a "diver down" flag that marks an area in which a person is scuba diving or snorkeling.

(3) To be entitled to the protections of this subsection (h), a scuba diver or snorkeler shall prominently display a "diver down" flag from a buoy or vessel.

(4) This section does not apply:

a. To a person who is operating a patrol or rescue craft; or

b. In an emergency.

(5) Subsection (h)(1) of this section does not apply:

a. To a person who is already operating a vessel in an area when another person displays a "diver down" flag within 150 feet of that vessel;

b. To a person who is operating a vessel in a waterway that is less than 300 feet wide; or

c. To a person who has permission to enter the area from the person who placed the buoy or the person who is operating the vessel displaying the "diver down" flag.

(6) In this subsection (h), the term "diver down" flag means a square or rectangular red flag that has a diagonal white stripe and is at least 15 inches by 15 inches in size.

(i) *Water-skis, aquaplanes, etc.; time and manner of operation*.

(1) No person shall operate a vessel on any water of this city and tow a person or persons on water-skis, surfboards, or similar devices and no person shall engage in water-skiing, surfboarding, or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise. This subsection does not apply to motorboats or vessels used in water-ski tournaments, competitions, or exhibitions or trials where adequate lighting is provided.

(2) All motorboats having in tow or otherwise assisting in towing a person on water-skis, aquaplanes, or similar contrivances shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.

(3) A person being towed on water-skis, aquaplanes, or similar devices by a vessel is considered an occupant of the vessel.

(Code 1994, § 86-103; Code 2005, § 94-68; Ord. No. 2000-31, § 1, 9-11-2000)

Sec. 94-69. Enforcement and penalties.

(a) *Enforcement officers.*

(1) All peace officers of this city that are certified as marine safety enforcement officers by the state parks and wildlife department are enforcement officers for the purpose of this article.

(2) The enforcement officers may enforce the provisions of this article by arresting and taking into custody any person who commits any act or offense prohibited by this article or who violates any provision of this article.

(b) *Water safety vessels; lights.* Only police water safety vessels and other vessels authorized under state law may use rotating or flashing blue beacon lights.

(c) *Required response to police water safety vessel.* The operator of a vessel underway, on sighting a rotating or flashing blue beacon light, shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is understood.

(d) *Inspection of vessels.*

(1) In order to enforce the provisions of this article, an enforcement officer may stop and board any vessel subject to this article and may inspect the boat to determine compliance with applicable provisions.

(2) An officer boarding a vessel shall first identify himself by presenting proper credentials.

(3) The operator of a vessel required by this article to hold a certificate of number aboard the vessel shall show the certificate to the officer on demand, and failure to do so constitutes a violation of this article.

(4) No person operating a boat on the water of this city shall refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this article.

(5) The safety of the vessel shall always be the paramount consideration of an arresting officer.

(6) If an enforcement officer determines that a vessel and its associated equipment are being used in violation of this article so as to create an especially hazardous condition, he shall direct the operator to return to mooring, and the vessel may not be used until the condition creating the violation is corrected.

(e) *Violation; notice to appear.*

(1) An enforcement officer who arrests a person for a violation of this article shall deliver to the alleged violator a written notice to appear within 15 days after the date of violation before the municipal court.

(2) The person arrested shall sign the notice to appear promising to make his appearance in accordance with the requirements set forth in the notice. After signing the notice, the person may be released. Failure to appear before the municipal court constitutes a violation of this article. A warrant for the arrest of the person failing to appear may be issued.

(f) *Penalties.*

(1) A person who violates or fails to comply with any provision of this article commits an offense that is a Class C parks and wildlife misdemeanor, and commits an offense punishable by a fine of not less than $25.00 or more than $500.00.

(2) The operator of a vessel who is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person shall comply with applicable state law requirements.

(Code 1994, § 86-104; Code 2005, § 94-69; Ord. No. 2000-31, § 1, 9-11-2000)

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 11, 2018 Dept. Clearances: Aubrey Harbin

Prepared by: Aubrey Harbin

Subject: Proposed Amendments to Appendix C, Zoning Ordinance Section 7.P.5. North American Industry Classification System (NAICS) Codes to change version reference from "1997" to the "current" North American Industry Classification System (NAICS) Codes; and Section 7.P.6.Permitted Use Table to update the reference to the 2017 NAICS Codes; to add NAICS Use #425 Wholesale Electronic Markets and Agents and Brokers; and to add NAICS Use #447190, Other Gasoline Stations (gas stations without convenience stores; truck stops; and marine service stations)

Originating Department: Community Development City Attorney Review: Yes

Proceeding: 2nd reading of ordinance

Degree of importance: Critical ☐ Significant ☐ Elective ☒

Expenditure Required:	Amount Budgeted:
Appropriation Required:	Source of Funds:
FINANCE APPROVAL:	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

Review of the Permitted Use Table and NAICS code is required by ordinance when staff determines that the NAICS codes have been updated, every five years, but it has been the practice of staff and the Commission to review the PUT annually.

NAICS Version Update:
The North American Industry Classification System (NAICS) is a reference book that staff uses to determine business uses. Since 1997, Canada, Mexico and the United States have collaborated in producing five-year revisions to NAICS in order to keep the classification system current with changes in economic activities. The most recent update was in 2017. Currently Section 7.P.5 references the 1997 version.

The proposal is to change this to "current" version and add the year reference in the actual Permitted Use Table (Section 7.P.6.)

Staff has reviewed the NAICS changes from the 2012 to 2017 edition, and none of the changes effect the reference numbers used in the Permitted Use Table.

Permitted Use Table Changes:
The numbering structure of NAICS is hierarchical. The first two digits of the number designate the NAICS sectors that represent general categories of economic activities. There are 20 sectors. The third digit designates the subsector, the fourth digit designates the industry group, the fifth digit designates the NAICS industry, and sixth digit designates the national industry. A zero as the sixth digit generally indicates that the NAICS industry and the US industry are the same.

In the Permitted Use Table, all NAICS reference numbers are expanded to at least three digits. Some are expanded further to define more specific uses/industries.

NAICS Use 425 Wholesale Electronic Markets and Agents and Broker is missing from the table. Proposal is to add it in order to be consistent, and allow it as Office Use Only (O) in Community Shopping Center (CSC), Office Park District (OPD), and Downtown District (DD) and Permit (P) the use in Light Industrial (LI), Industrial (I) and Business Park (BP) (duplicated where NAICS Uses 423 and 424 are allowed).

NAICS Use 447 Gasoline Stations includes truck stops and as currently written would allow at truck stop to be developed in the Community Shopping Center (CSC) zoning district along our major thoroughfares. Staff had an inquiry for a truck stop on FM 2351 which initiated this proposed change. Proposal is to expand the 447 use to 447190, Other Gasoline Stations and allow Office Use Only (O) in Office Park District (OPD) and Downtown District (DD) and required a Specific Use Permit (S) in Light Industrial (LI) and Industrial (I).

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Recognizing the 2017 codes will keep the Zoning Ordinance and the uses identified in the Permitted Use Table updated.

Adding NAICS Use 425 is just for consistency as all of the industry classification numbers should be expanded to at least three digits.

Adding NAICS Use 447190 will limit where truck stops, gas stations without convenience stores, and marine service stations would be allowed. Use 447 would still be applicable to gas stations with convenience stores.

RECOMMENDATIONS

The Planning and Zoning Commission voted unanimously (6-0) in favor of the proposed ordinance change.

ATTACHMENTS

Ordinance
PZ Memo

(Title: An ordinance adopting revisions and updates to Appendix C "Zoning," Section 7.P.5. "North American Industry Classification System (NAICS) Codes" to change the version reference from "1997" to "current" North American Industry Classification System (NAICS) Codes as referenced in Exhibit "A," and revisions and updates to Section 7.P.6. "Permitted Use Table," by adding the "2017 NAICS" reference; providing for the addition of NAICS Use #425 Wholesale Electronics Markets and Agents and Brokers; and providing for the expansion of NAICS Use #447 by adding NAICS Use #447190 Other Gasoline Stations (gas stations without convenience stores; truck stops; and marine service stations) as referenced in Exhibit "B.")

ORDINANCE T2018-15

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FRIENDSWOOD, TEXAS, APPENDIX C – "ZONING," SECTION 7, "SCHEDULE OF DISTRICT REGULATIONS," SUBSECTION 7.P.5, "NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES" BY CHANGING THE REFERENCE FROM "1997" TO "CURRENT" AND AMENDING SUBSECTION 7.P.6, "PERMITTED USE TABLE," BY ADDING THE "2017 NAICS" REFERENCE, BY ADDING NAICS USE #425, WHOLESALE ELECTRONICS MARKETS AND AGENTS AND BROKERS; AND PROVIDING FOR THE EXPANSION OF NAICS USE #447 BY ADDING NAICS USE #447190, OTHER GASOLINE STATIONS (GAS STATIONS WITHOUT CONVENIENCE STORES; TRUCK STOPS; AND MARINE SERVICE STATIONS); PROVIDING A PENALTY FOR VIOLATION IN AN AMOUNT NOT TO EXCEED $2000, OR AS OTHERWISE PROVIDED BY LAW; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * * * * * * *

WHEREAS, the City Council of the City of Friendswood is continually reviewing the provisions of the city Code of Ordinances, specifically including Appendix C of the Friendswood City Code, ("Zoning Ordinance") relating to land use and other circumstances which generally impact the health, safety and well-being of residents, citizens and inhabitants; and

WHEREAS, city staff reviewed the North American Industry Classification System (NAICS) code book and determined that the manual had been revised from the 2012 version to the more current 2017 version; and

WHEREAS, the City Council and the Planning and Zoning Commission of the City of Friendswood have studied the present provisions of the Zoning Ordinance and have determined the need to revise and update the provisions related to uses by adding NAICS Use #425, Wholesale Electronics Markets and Agents and Brokers and expanding NAICS Use #447, Gasoline Stations by adding NAICS Use #447190, Other Gasoline Stations (gas stations without convenience stores; truck stops; and marine service stations) as reflected in the "Permitted Use Table," to facilitate orderly growth of the City and the protection of the health, safety and welfare of the inhabitants of the City of Friendswood; and

WHEREAS, the Planning and Zoning Commission of the City of Friendswood has conducted a public hearing, received input from staff and has issued its final report recommending the amendments referenced hereafter; and

WHEREAS, the Planning and Zoning Commission and the City Council have conducted a joint public hearing in the time and manner required by law; and

WHEREAS, City Council has determined that all public notices have been posted and published, all required hearings on this matter have been held, and that this Ordinance complies with the applicable provisions of the City Charter, City Code and all other applicable laws; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, STATE OF TEXAS:

Section 1. FINDINGS OF FACT.

That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. AMENDMENT TO THE FRIENDSWOOD CITY CODE, APPENDIX C, "ZONING," SECTION 7.P.5. "NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES.

The City Code of Friendswood, Appendix C, "Zoning," Section 7, "Schedule of District Regulations," Subsection 7.P.5., "North American Industry Classification System (NAICS) Code" is hereby amended by changing the "1997" reference to "current." The actual year reference will be included in the Permitted Use Table in Subsection 7.P.6., as depicted in Exhibit "A" which is hereby made part of this Ordinance.

Section 3. AMENDMENT TO THE FRIENDSWOOD CITY CODE, APPENDIX C, "ZONING," SECTION 7.P.6. "PERMITTED USE TABLE,"

The City Code of Friendswood, Appendix C, "Zoning," Section 7, "Schedule of District Regulations," Subsection 7.P.6., "Permitted Use Table," is hereby amended by adding the "2017 NAICS" version reference; and by adding to the table NAICS Use #425, Wholesale Electronics Markets and Agents and Brokers to be allowed as Office Use Only (O) in Community Shopping Center (CSC), Office Park District (OPD), and Downtown District (DD) and Permit (P) the use in Light Industrial (LI), Industrial (I) and Business Park (BP); and by adding NAICS Use #447190, Other Gasoline Stations to allow Office Use Only (O) in Office Park District (OPD) and Downtown District (DD) and require a Specific Use Permit (S) in Light Industrial (LI) and Industrial (I) as reflected in the "Permitted Use Table," as depicted in Exhibit "B" which is hereby made part of this Ordinance.

Section 4. INCORPORATION INTO THE CODE, PENALTY CLAUSE.

This Ordinance is hereby incorporated and made a part of the Friendswood City Code. Violation of this Ordinance is subject to the penalty section of said Code of Ordinance, Section 1-14 "General penalty for violations of Code; continuing violations." Any person who shall willfully, intentionally, or with criminal negligence violate any provision of this Ordinance shall be deemed

guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $2,000. Each day of violation shall constitute a separate offense.

Section 5. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are hereby expressly repealed.

Section 6. SEVERABILITY.

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 7. NOTICE.

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading this 4th day of June, 2018.

PASSED, APPROVED, and ADOPTED on second and final reading this 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

Exhibit “A”

Zoning Ordinance

Section 7. Schedule of District Regulations

P. Permitted Uses

…

5. *North America Industry Classification System (NAICS) Codes.* The activity descriptions in the ~~1997~~ current NAICS Codes prepared by United States Executive Office of the President, Office of Management and Budget, shall be used to determine the primary establishment uses when reference is made in the tables to a designated standard industrial classification. Every January, community development staff shall determine if the manual has been revised. If the manual has been revised, such revisions and changes will be summarized in a written report and presented to the planning and zoning commission. The commission will make recommendations to council regarding adoption of the revised manual and appropriate changes to the zoning ordinance permitted use table. The commission may recommend that an ad hoc committee review and propose revisions to the permitted use table.

Exhibit "B"

Zoning Ordinance

Section 7. Schedule of District Regulations

P. Permitted Uses

…

6. Permitted Use Table

	2017 NAICS Industry Description	SFR and SFR-E	MFR-GHD	MFR-L	MFR-M	MFR-H	GHD	CSC	NC	LNC	OPD	DD	A-1	L1	I	BP
42	**Wholesale Trade**															
423	Merchant Wholesalers, Durable Goods							O			O	O		P	P	P
424	Merchant Wholesalers, Nondurable Goods							O			O	O		P	P	P
425	Wholesale Electronic Markets and Agents and Brokers							O			O	O		P	P	P
44-45	**Retail Trade**															
447	Gasoline Stations							P	P		O	S		P	P	
447190	Other Gasoline Stations										O	O		S	S	

City of Friendswood

Memo

To: Mayor and City Council

From: Rhonda Neel, P&Z Chairman RN (AH)

Date: June 5, 2018

Re: **Proposed Amendments to Appendix C, Zoning Ordinance Section 7.P.5. North American Industry Classification System (NAICS) Codes to change version reference from "1997" to the "current" North American Industry Classification System (NAICS) Codes; and Section 7.P.6.Permitted Use Table to update the reference to the 2017 NAICS Codes; to add NAICS Use #425 Wholesale Electronic Markets and Agents and Brokers; and to add NAICS Use #447190, Other Gasoline Stations (gas stations without convenience stores; truck stops; and marine service stations)**

At the meeting held June 4, 2018, the City of Friendswood Planning and Zoning Commission voted unanimously 6-0 (one vacant position) to approve the above referenced amendment to the Zoning Ordinance and as referenced in Exhibits "A" and "B" attached hereto.

Recognizing the 2017 codes will keep the Zoning Ordinance and the uses identified in the Permitted Use Table updated.

Adding NAICS Use 425 is just for consistency as all of the industry classification numbers should be expanded to at least three digits.

Adding NAICS Use 447190 will limit where truck stops, gas stations without convenience stores, and marine service stations would be allowed. Use 447 would still be applicable to gas stations with convenience stores.

Exhibit "A"

Zoning Ordinance

Section 7. Schedule of District Regulations

P. Permitted Uses

…

5. *North America Industry Classification System (NAICS) Codes.* The activity descriptions in the ~~1997~~ current NAICS Codes prepared by United States Executive Office of the President, Office of Management and Budget, shall be used to determine the primary establishment uses when reference is made in the tables to a designated standard industrial classification. Every January, community development staff shall determine if the manual has been revised. If the manual has been revised, such revisions and changes will be summarized in a written report and presented to the planning and zoning commission. The commission will make recommendations to council regarding adoption of the revised manual and appropriate changes to the zoning ordinance permitted use table. The commission may recommend that an ad hoc committee review and propose revisions to the permitted use table.

Exhibit "B"

Zoning Ordinance

Section 7. Schedule of District Regulations

P. Permitted Uses

…

6. Permitted Use Table

	2017 NAICS Industry Description	SFR and SFR-E	MFR-GHD	MFR-L	MFR-M	MFR-H	GHD	CSC	NC	LNC	OPD	DD	A-1	L1	I	BP
42	**Wholesale Trade**															
423	Merchant Wholesalers, Durable Goods							O			O	O		P	P	P
424	Merchant Wholesalers, Nondurable Goods							O			O	O		P	P	P
425	Wholesale Electronic Markets and Agents and Brokers							O			O	O		P	P	P
44-45	**Retail Trade**															
447	Gasoline Stations							P	P		O	S		P	P	
447190	Other Gasoline Stations										O	O		S	S	

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 11, 2018 Dept. Clearances: Aubrey Harbin

Prepared by: Aubrey Harbin

Subject: Proposed amendments to Appendix C, Zoning Ordinance Section 7. Q. 3. Area and Height exceptions, to allow stairs of an elevated house to encroach the front building line in certain situations

Originating Department: Community Development City Attorney Review: Yes

Proceeding: 2nd reading of an ordinance

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required:	Amount Budgeted:
Appropriation Required:	Source of Funds:
FINANCE APPROVAL:	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

As a result of homeowners elevating their homes due to flooding, we have had a new issue arise. To date, two applications have been submitted for the Zoning Board of Adjustment regarding stairs encroaching the front building line. In both cases, the owners are rebuilding their homes on the existing foundation/footprint of the homes. With the home elevated, it requires stairs to access the structure and in some cases the stairs are extending past the front building line.

According to several definitions in the Zoning Ordinance, stairs are subject to the front building setback, which is most commonly 25 feet, but on some lots may be greater. Staff anticipates more of these situations.

Zoning Ordinance
Section 20. Definitions
D. Building. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind.

E. Building area. The surface of the lot covered or occupied by all structures placed thereon, excluding only driveways, walkways and uncovered patios.

F. Building line. A line parallel or approximately parallel to the street line and beyond which buildings may not be erected.

X. Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

CC. Yard. An open space, other than a court, on a lot, unoccupied and unobstructed from the ground upward except for fences and walls.

DD. Yard, front. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot as specified in each zoning district.

The proposed amendment to Section 7.Q.3. Area and Height Exceptions would exempt uncovered stairs from having to be behind the front building line, similar to sidewalk or flatwork leading to a front door, in the following situations:

g. Stairs in Certain Situations. In residential zoning districts that have minimum front yard requirements, uncovered stairways associated with a residential use may project into the required front yard but shall remain a minimum of 10 feet from the front property line, if:

1. A building is being elevated or reconstructed on an existing foundation to meet or exceed current City floodplain standards; and
2. The stairway projection into the required front yard is limited to the minimum area required to meet elevation standards; and
3. The stairway, at its widest point, shall not exceed 10 feet.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The proposed amendments would provide relief for some owners elevating and/or rebuilding their homes as a result of Harvey and not require them to go through the variance process with ZBOA.

RECOMMENDATIONS

The Planning and Zoning Commission and staff have discussed the proposed changes and are in favor of the changes, provided the change only allows for uncovered stairs without columns or posts. Additionally, the stairs may only encroach the minimum area required to meet elevation standards, and if an application exceeds that standard, then they would be required to apply for a variance.

The Planning & Zoning Commission voted unanimously (6-0) in favor of the proposed ordinance change.

ATTACHMENTS

Ordinance
PZ Rec memo

(Title: An ordinance adopting revisions and updates to Appendix C "Zoning," Section 7.Q.3. "Area and Height exceptions," by adding "g. Stairs in Certain Situations," and exception to allow stairs of an elevated house to encroach the front building line in certain situations)

ORDINANCE T2018-16

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FRIENDSWOOD, TEXAS, APPENDIX C – "ZONING," SECTION 7, "SCHEDULE OF DISTRICT REGULATIONS," SUBSECTION 7.Q.3. "AREA AND HEIGHT EXCEPTIONS" BY ADDING "G. STAIRS IN CERTAIN SITUATIONS," AN EXCEPTION TO ALLOW STAIRS OF AN ELEVATED HOUSE TO ENCROACH THE FRONT BUILDING LINE IN CERTAIN SITUATIONS; PROVIDING A PENALTY FOR VIOLATION IN AN AMOUNT NOT TO EXCEED $2000, OR AS OTHERWISE PROVIDED BY LAW; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * * * * * * * * *

WHEREAS, the City Council of the City of Friendswood is continually reviewing the provisions of the city Code of Ordinances, specifically including Appendix C of the Friendswood City Code, ("Zoning Ordinance") relating to land use and other circumstances which generally impact the health, safety and well-being of residents, citizens and inhabitants; and

WHEREAS, as a result of the Harvey flood, specifically, homeowners are either being required to elevate their homes or are choosing to elevate their homes on existing foundations; and

WHEREAS, the City Council and the Planning and Zoning Commission of the City of Friendswood have studied the present provisions of the Zoning Ordinance and have determined the need to revise and update the provisions related to exceptions for Area and Height in order to

allow stairs to encroach the front building line in certain situations to facilitate orderly growth of the City and the protection of the health, safety and welfare of the inhabitants of the City of Friendswood; and

WHEREAS, the Planning and Zoning Commission of the City of Friendswood has conducted a public hearing, received input from staff and has issued its final report recommending the amendments referenced hereafter; and

WHEREAS, the Planning and Zoning Commission and the City Council have conducted a joint public hearing in the time and manner required by law; and

WHEREAS, City Council has determined that all public notices have been posted and published, all required hearings on this matter have been held, and that this Ordinance complies with the applicable provisions of the City Charter, City Code and all other applicable laws; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, STATE OF TEXAS:

Section 1. FINDINGS OF FACT.

That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. AMENDMENT TO THE FRIENDSWOOD CITY CODE, APPENDIX C, "ZONING," SECTION 7.Q.3 "AREA AND HEIGHT EXCEPTIONS.

Amend the City Code of Friendswood, Appendix C, "Zoning," Section 7, "Schedule of District Regulations," Subsection 7.Q.3. "Area and Height Exceptions," by adding "g. Stairs in Certain Situations," an exception for uncovered stairways used to access an elevated house to encroach the front building line on residential lots if the stairs are a minimum of ten feet from the

front property line, the building is being elevated or reconstructed on an existing foundation to meet or exceed current City Flood Ordinance regulations, the stairway projection into the required yard is limited to the minimum area required to meet elevation standards per the adopted building code, and the stairway, at its widest point, shall not exceed 10 feet, as depicted in Exhibit "A" which is hereby made part of this Ordinance.

Section 3. INCORPORATION INTO THE CODE, PENALTY CLAUSE.

This Ordinance is hereby incorporated and made a part of the Friendswood City Code. Violation of this Ordinance is subject to the penalty section of said Code of Ordinance, Section 1-14 "General penalty for violations of Code; continuing violations." Any person who shall willfully, intentionally, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $2,000. Each day of violation shall constitute a separate offense.

Section 4. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are hereby expressly repealed.

Section 5. SEVERABILITY.

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 6. NOTICE.

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first reading this 4th day of June, 2018.

PASSED, APPROVED, and ADOPTED on second and final reading this 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

Exhibit "A"

REGULATION MATRIX - RESIDENTIAL DISTRICTS

Circled letters (letters in parentheses) refer to paragraphs in section 7-Q.3

	Units per Acre	Lot Area Minimum Square Feet	Lot Width	**Yards - Minimum Feet**					Height Maximum Feet (b and e)	Parking Requirement Unit	Zero Lot Lines Y or N	Maximum Lot Coverage
				Front	Rear (a)	**Side**						
						Interior (d)	**Exterior (Corner Lot)**					
							Backing Up to an Abutting Side Yard	Backing Up to an Abutting Rear Yard				
SFR Single Family Residential	2.7	11,600	90 A	25 B	25	10 F	25 A	20 C	40	K	No	35%
SFR Single Family Residential	2.7	15,600	120 A	25 B	25	10	25 B	20 C	40	K	No	35%
SFR - E Single Family Residential Estate	0.5	87,120	150 A	75	25	25	35	35	40	K	No	20
MFR - L Multi Family - Low	6 G	7,260 G	45 G	25 B	25	10 E, I	25 B	20 C	40	K	No	50

MFR - M Multi Family - Medium	9	—	—	25 B	0	10 E, I	25 B	20 C	40	K	No	50
MFR - H Multi Family - High	12	—	—	25 B	0	10 E, I	25 B	20 C	40	K	No	50
MHR Mobile Home	10	—	—	25 B	25	10 I	30	25 B	20	K	No	50
A I	—	—	—	25 B	25	10 I	25 B	20 C	40	K	No	10%
MFR-GHD Garden Home District	6	6,000	60	20 B, H	20	0 D, J	5 B, H	4 C, H	40	K	Yes D	50

A. Lots of less than 120 feet wide require curbs. Lots 120 feet wide or greater may use open ditches.

B. Thirty-five feet on thoroughfares.

C. Twenty-five feet on thoroughfares.

D. Zero set-back on side only, minimum five-foot separation between buildings.

E. Ten foot minimum separation between buildings.

F. Lots currently in existence with less than 90 feet of width that have structures already built upon them may continue with the same existing set back for additions provided they are not less than a minimum of five feet.

G. Developer must elect either units per acre or lot area. Two family residential units on two lots are required when lot area is elected.

H. Front yard and exterior side yard setbacks shall be measured from the edge of the street ROW or the edge of the Drainage Utility/Access easement (if streets are private) whichever is greater.

I. Twenty-five feet when abutting land zoned single-family residential (SFR) district.

J. Ten feet when abutting land zoned anything other than MFR - GHD (Garden Home District).

K. Parking is required in accordance with the Parking Group Table in the Design Criteria Manual.

3. Area and height exceptions.

a. Unattached accessory buildings or structures less than 25 feet in height, as measured from the adjacent grade to the highest point of any portion of such building or structure, may be located in required rear or side yards within residential districts, provided they are set back not less than five feet from any interior side lot line, 20 feet from any side lot line adjacent to a side street, and ten feet from any rear lot line.

b. A building structure may not exceed 40 feet in height measured from the minimum habitable floor elevation; provided, however, that:

1. Buildings or structures in Community Shopping Center (CSC), Neighborhood Commercial (NC), Office Park (OPD), Light Industrial (LI), Industrial (I), Business Park (BP) districts may exceed 40 feet in height when:

a. The building setback from the nearest property line is equal to the building height. Further, the building or structure shall fit under an imaginary line that is not greater than 45.0 degrees at the property line from a horizontal line established at the minimum habitable floor elevation. Provided, however, no building or structure on property adjacent to a residential zone shall have a height that exceeds 50 feet unless a specific use permit shall have been granted therefore in accordance with subsection 9.G. of this appendix.

b. Buildings or structures of 40 feet or less in height shall meet the setback requirements as defined in this appendix.

2. Exceptions: Structures located within a General PUD or PUD-Mixed Use shall be exempt from the height limitations contained herein. Height limitations for buildings or structures located within a General PUD or PUD-Mixed Use application will be as established in the Ordinance authorizing and approving the Planned Unit Development.

3. The maximum height allowed for structures within the Downtown District (DD) is 70 feet as measured in accordance with the method prescribed in Section 20, Definitions, subsection OO, Height.

c. Interior side yards shall not be required for abutting properties in the same zoning district if both properties are developed as a unit under a common development plan.

d. When individual attached townhouses or condominiums are to be sold separately, there shall be no minimum lot area requirements provided that the total land area of the project, including the land on which the units are located and the land held in common ownership by the unit owners, is equal to the total minimum land area required per dwelling unit or lot in the district in which the project is located.

e. The height regulations of this section shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, storage towers, flagpoles, monuments, ornamental towers or spires, cranes, construction equipment, smokestacks, stage towers and scenery lofts, tanks, water towers, ham radio and television antennas, microwave relay, radio and television transmission towers and items similar to those listed herein. The total combined maximum height for these items and the structure is 50 feet overall height, measured from the first finished floor to the highest point, unless otherwise approved by the planning and zoning commission.

f. Minimum front yard setbacks for lots with predominant frontage on the curved radius of a cul-de-sac shall be 15 feet.

g. Stairs in Certain Situations. In residential zoning districts that have minimum front yard requirements, uncovered stairways associated with a residential use may project into the required front yard but shall remain a minimum of 10 feet from the front property line, if:

1. A building is being elevated or reconstructed on an existing foundation to meet or exceed current City floodplain standards; and
2. The stairway projection into the required front yard is limited to the minimum area required to meet elevation standards; and the stairway, at its widest point, shall not exceed 10 feet.

City of Friendswood

Memo

To: Mayor and City Council

From: Rhonda Neel, P&Z Chairman RN (AH)

Date: June 5, 2018

Re: Proposed amendments to Appendix C, Zoning Ordinance Section 7. Q. 3. Area and Height exceptions, to allow stairs of an elevated house to encroach the front building line in certain situations

---

At the meeting held June 4, 2018, the City of Friendswood Planning and Zoning Commission voted unanimously 6-0 (one vacant position) to approve the above referenced amendment to the Zoning Ordinance and as referenced in Exhibit "A" attached hereto.

Adding the exception to the Residential Regulation Matrix would provide relief for some owners elevating and/or rebuilding their homes as a result of Harvey and not require them to go through the variance process with ZBOA.

Exhibit "A"

REGULATION MATRIX - RESIDENTIAL DISTRICTS

Circled letters (letters in parentheses) refer to paragraphs in section 7-Q.3

	Units per Acre	Lot Area Minimum Square Feet	Lot Width	**Yards - Minimum Feet**					Height Maximum Feet (b and e)	Parking Requirement Unit	Zero Lot Lines Y or N	Maximum Lot Coverage
				Front	Rear (a)	**Side**						
						Interior (d)	**Exterior (Corner Lot)**					
							Backing Up to an Abutting Side Yard	Backing Up to an Abutting Rear Yard				
SFR Single Family Residential	2.7	11,600	90 A	25 B	25	10 F	25 A	20 C	40	K	No	35%
SFR Single Family Residential	2.7	15,600	120 A	25 B	25	10	25 B	20 C	40	K	No	35%
SFR - E Single Family Residential Estate	0.5	87,120	150 A	75	25	25	35	35	40	K	No	20
MFR - L Multi Family - Low	6 G	7,260 G	45 G	25 B	25	10 E, I	25 B	20 C	40	K	No	50
MFR - M Multi Family	9	—	—	25 B	0	10 E, I	25 B	20 C	40	K	No	50

- Medium												
MFR - H Multi Family - High	12	—	—	25 B	0	10 E, I	25 B	20 C	40	K	No	50
MHR Mobile Home	10	—	—	25 B	25	10 I	30	25 B	20	K	No	50
A I	—	—	—	25 B	25	10 I	25 B	20 C	40	K	No	10%
MFR-GHD Garden Home District	6	6,000	60	20 B, H	20	0 D, J	5 B, H	4 C, H	40	K	Yes D	50

A. Lots of less than 120 feet wide require curbs. Lots 120 feet wide or greater may use open ditches.
B. Thirty-five feet on thoroughfares.
C. Twenty-five feet on thoroughfares.
D. Zero set-back on side only, minimum five-foot separation between buildings.
E. Ten foot minimum separation between buildings.
F. Lots currently in existence with less than 90 feet of width that have structures already built upon them may continue with the same existing set back for additions provided they are not less than a minimum of five feet.
G. Developer must elect either units per acre or lot area. Two family residential units on two lots are required when lot area is elected.
H. Front yard and exterior side yard setbacks shall be measured from the edge of the street ROW or the edge of the Drainage Utility/Access easement (if streets are private) whichever is greater.
I. Twenty-five feet when abutting land zoned single-family residential (SFR) district.
J. Ten feet when abutting land zoned anything other than MFR - GHD (Garden Home District).
K. Parking is required in accordance with the Parking Group Table in the Design Criteria Manual.

3. Area and height exceptions.

a. Unattached accessory buildings or structures less than 25 feet in height, as measured from the adjacent grade to the highest point of any portion of such building or structure, may be located in required rear or side yards within residential districts, provided they are set back not less than five feet from any interior side lot line, 20 feet from any side lot line adjacent to a side street, and ten feet from any rear lot line.

b. A building structure may not exceed 40 feet in height measured from the minimum habitable floor elevation; provided, however, that:

1. Buildings or structures in Community Shopping Center (CSC), Neighborhood Commercial (NC), Office Park (OPD), Light Industrial (LI), Industrial (I), Business Park (BP) districts may exceed 40 feet in height when:

a. The building setback from the nearest property line is equal to the building height. Further, the building or structure shall fit under an imaginary line that is not greater than 45.0 degrees at the property line from a horizontal line established at the minimum habitable floor elevation. Provided, however, no building or structure on property adjacent to a residential zone shall have a height that exceeds 50 feet unless a specific use permit shall have been granted therefore in accordance with subsection 9.G. of this appendix.

b. Buildings or structures of 40 feet or less in height shall meet the setback requirements as defined in this appendix.

2. Exceptions: Structures located within a General PUD or PUD-Mixed Use shall be exempt from the height limitations contained herein. Height limitations for buildings or structures located within a General PUD or PUD-Mixed Use application will be as established in the Ordinance authorizing and approving the Planned Unit Development.

3. The maximum height allowed for structures within the Downtown District (DD) is 70 feet as measured in

accordance with the method prescribed in Section 20, Definitions, subsection OO, Height.

c. Interior side yards shall not be required for abutting properties in the same zoning district if both properties are developed as a unit under a common development plan.

d. When individual attached townhouses or condominiums are to be sold separately, there shall be no minimum lot area requirements provided that the total land area of the project, including the land on which the units are located and the land held in common ownership by the unit owners, is equal to the total minimum land area required per dwelling unit or lot in the district in which the project is located.

e. The height regulations of this section shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, storage towers, flagpoles, monuments, ornamental towers or spires, cranes, construction equipment, smokestacks, stage towers and scenery lofts, tanks, water towers, ham radio and television antennas, microwave relay, radio and television transmission towers and items similar to those listed herein. The total combined maximum height for these items and the structure is 50 feet overall height, measured from the first finished floor to the highest point, unless otherwise approved by the planning and zoning commission.

f. Minimum front yard setbacks for lots with predominant frontage on the curved radius of a cul-de-sac shall be 15 feet.

g. Stairs in Certain Situations. In residential zoning districts that have minimum front yard requirements, uncovered stairways associated with a residential use may project into the required front yard but shall remain a minimum of 10 feet from the front property line, if:

1. A building is being elevated or reconstructed on an existing foundation to meet or exceed current City floodplain standards; and
2. The stairway projection into the required front yard is limited to the minimum area required to meet elevation

standards; and the stairway, at its widest point, shall not exceed 10 feet.

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 07/02/18

Date Submitted: 05.08.18 Dept. Clearances: KRH

Prepared by: Katina Hampton

Subject: Waste Connections of Texas Rate Adjustment

Originating Department: Administrative Services City Attorney Review: 05/31/18

Proceeding: Ordinances

Degree of importance: Critical ☒ Significant ☐ Elective ☐

Expenditure Required: N/A Amount Budgeted: N/A

Appropriation Required: N/A Source of Funds: N/A

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

In April, 2012, the City and Progressive Waste Solutions (now, Waste Connections of Texas) entered into an agreement for refuse collection and disposal services. The agreement was extended in December 2016. The agreement allows the contractor to request an annual rate adjustment. One component of the adjustment is reflective of actual cost increases in disposal costs or increased fees, increased labor and equipment cost, or increased operational cost. Consumer Price Index (CPI) is the basis for this component. The second component of the adjustment is for fuel cost. This adjustment is based on the average weekly fuel prices as published by the U.S. Department of Energy compared to a base cost as defined by the agreement.

This year's rate increase request includes adjustments for CPI, additional operational expense (landfill cost) a reduction in the fuel cost adjustment component.

The rate increase requested is:
CPI Adjustment = 2.36%
Operational Expense Adjustment (Landfill) = 4.50%
Fuel Adjustment = -4.47%
Total Adjustment = 2.39%

Current rate for single family:

Monthly curbside refuse and recycling (18 gallon recycle bin)	$14.29
Monthly administrative fee (city revenue)	$ 1.43
	$15.72

Proposed rate for single family:

Monthly curbside refuse and recycling (18 gallon recycle bin)	$14.63
Monthly administrative fee (city revenue)	$ 1.46
	$16.09

The monthly increase for a single family resident is $0.34 (34 cents) per month. The cost for families who utilize a 95 gallon recycle cart will increase by $0.37 (37 cents) for a total of $1.10 per month for use of the larger container.

Rate adjustments require adoption by ordinance.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

The rate adjustment will allow Waste Connections of Texas to cover the company's cost of providing solid waste management services to the City, ensuring public health and environmental safety.

RECOMMENDATIONS

Staff recommends adoption of the ordinance after two readings. City Council approved the 1st reading of the ordinance on June 4, 2018. The adjusted rates will be effective on utility bills generated after the 2nd and final reading of the ordinance in July 2018.

ATTACHMENTS

Ordinance T2018-17
Exhibit A Waste Connections of Texas Rate Adjustment
Rate adjustment request letter dated April 30 2018 from Waste Connections of Texas

(Title: An ordinance approving an amendment to Ordinances No. 2012-04 and 2016-46 approving an annual rate adjustment for solid waste collection and disposal.)

ORDINANCE NO. T2018-17

AN ORDINANCE AMENDING ORDINANCES NO. 2012-04 AND 2016-46 IN ORDER TO APPROVE AN ANNUAL RATE ADJUSTMENT AS PROVIDED FOR IN THE CITY OF FRIENDSWOOD – PROGRESSIVE WASTE SOLUTIONS OF TX, INC., D/B/A WC OF TEXAS (FORMERLY KNOWN AS IESI TX CORPORATION) SOLID WASTE FRANCHISE.

* * * * * * * * * * *

WHEREAS, on March 5, 2012, the City Council of the City of Friendswood, Texas passed and adopted Ordinance No. 2012-04 granting to Progressive Waste Solution of TX, Inc., formerly "IESI TX Corporation," ("Progressive") a franchise to provide solid waste collection and disposal services to the residents of the City, in accordance with the terms and conditions set out in the Agreement; and

WHEREAS, on December 5, 2016, the City Council of the City of Friendswood, Texas passed and adopted Ordinance No. 2016-46 granting to WC of Texas (Waste Connections of Texas, formerly Progressive Waste Solution of TX, Inc. and IESI TX Corporation) an extension of the franchise to provide solid waste collection disposal services to the residents of the City, in accordance with the terms and conditions set out in the Agreement; and

WHEREAS, pursuant to Section 10 of the Agreement entitled "Rate Adjustment," Progressive, d/b/a WC of Texas, is entitled to request an increase in the rates charged to the City for solid waste collection services on each anniversary date of the Agreement; and

WHEREAS, WC of Texas has presented a proposed rate adjustment to the Agreement for residential and commercial rates as set forth on Exhibit "A" attached to this ordinance; and

WHEREAS, the City Council has reviewed the proposed rate adjustment and has agreed

that the adjustment is fair and reasonable and, by this ordinance, wishes to provide for an amendment to the Agreement in order to permit the imposition of such adjustment,

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Section 9 of the Agreement entitled "Rates and Fees" is hereby amended and, effective with City of Friendswood utility services billings generated in July 2018, the rates for residential and commercial services provided by WC of Texas shall be in accordance with the rates and fees set forth more particularly on Exhibit "A" attached hereto.

Section 3. This Ordinance shall in no manner amend, change, supplement or revise any other terms or conditions of the Agreement as approved by Ordinance No. 2012-04 and Ordinance No. 2016-46.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED AND APPROVED on first reading this 4th day of June, 2018.

PASSED, APPROVED, AND ADOPTED on second and final reading this 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____

Melinda Welsh, TRMC
City Secretary

EXHIBIT "A"
CITY OF FRIENDSWOOD
SOLID WASTE SCHEDULE
EFFECTIVE AND REFLECTED ON BILLINGS DATED AFTER JULY 2, 2018

Rate Increase of 2.39%

	2018	
Total Residential Bag-32 gal Can/Recycle Bin	**$ 14.63**	**per month**
Additional 18 gallon recycle bin	**$ 7.18**	**per month**
Total Residential Bag-32 gal can/Recycle Cart	**$ 15.73**	**per month**
Light Commercial Collection 1x Week	**$ 35.16**	**per month**
Light Commercial Collection 2x Week	**$ 52.74**	**per month**

COMMERCIAL RATE SCHEDULE

2018

CONTAINER SIZE	Lifts Per Week 1	2	3	4	5	6	*Extra-Lifts*
2 Cubic Yd	$ 86.05	$ 101.70	$ 171.95	$ 240.57	$ 315.56	$ 397.36	$ 16.15
3 Cubic Yd	$ 98.80	$ 129.69	$ 240.10	$ 335.89	$ 440.58	$ 554.80	$ 24.22
4 Cubic Yd	$ 99.19	$ 130.46	$ 241.26	$ 337.43	$ 442.52	$ 557.10	$ 32.28
6 Cubic Yd	$ 112.28	$ 202.44	$ 293.60	$ 386.34	$ 489.32	$ 587.08	$ 48.42
8 Cubic Yd	$ 198.33	$ 305.82	$ 391.51	$ 521.90	$ 666.85	$ 801.18	$ 64.55

WASTE CONNECTIONS, INC.
Connect with the Future®

April 30, 2018

City of Friendswood
Attn: Morad Kabiri
910 South Friendswood Dr
Friendswood, TX 77546

RE: Annual Rate Adjustment

Dear Mr. Kabiri,

Waste Connections would like to sincerely thank you for the great opportunity we have had to serve the citizens and community of Friendswood. We thoroughly enjoy and appreciate the relationship between Waste Connections and the City of Friendswood.

Each year we evaluate the CPI-U, fuel, and landfill costs per our contract with the city. This year the CPI-U adjustment is 2.36%, and the landfill cost adjustment is 4.5%. Fuel has seen a drop from the base rate to -4.47%. The total rate adjustment that will be implemented to the City of Friendswood is 2.39%. I have enclosed further details of these adjustments with this letter.

We respect that council must approve this adjustment. With City Counsels approval we would like to adjust these rates on the next billing cycle.

Should you have any questions or concerns regarding this adjustment or anything else, please feel free to contact me at the office at 281-331-0810.

Best Regards,

Abel Moreno
District Manager
Waste Connections of TX
abelm@wasteconnections.com

EXHIBIT "A"
CITY OF FRIENDSWOOD
SOLID WASTE SCHEDULE
EFFECTIVE 2018

Rate Increase of 2.39%

The following tabs show the CPI of 2.36%, Landfill increase of 4.5%, and Fuel Surcharge decrease of 4.47%

2016

Total Residential Bag-32 gal Can/Recycle Bin	**$ 14.29**	**per month**
Additional 18 gallon recycle bin	**$ 7.01**	**One time fee**
Total Residential Bag-32 gal can/Recycle Cart	**$ 15.36**	**per month**
Light Commercial Collection 1x Week	**$ 34.34**	**per month**
Light Commercial Collection 2x Week	**$ 51.51**	**per month**

2018

Total Residential Bag-32 gal Can/Recycle Bin	**$ 14.63**	**per month**
Additional 18 gallon recycle bin	**$ 7.18**	**per month**
Total Residential Bag-32 gal can/Recycle Cart	**$ 15.73**	**per month**
Light Commercial Collection 1x Week	**$ 35.16**	**per month**
Light Commercial Collection 2x Week	**$ 52.74**	**per month**

COMMERCIAL RATE SCHEDULE

2016

CONTAINER SIZE	Lifts Per Week 1	2	3	4	5	6	*Extra-Lifts*
2 Cubic Yd	$ 84.04	$ 99.33	$ 167.94	$ 234.95	$ 308.19	$ 388.08	$ 15.77
3 Cubic Yd	$ 96.49	$ 126.66	$ 234.50	$ 328.05	$ 430.30	$ 541.85	$ 23.65
4 Cubic Yd	$ 96.87	$ 127.41	$ 235.63	$ 329.55	$ 432.19	$ 544.10	$ 31.53
6 Cubic Yd	$ 109.66	$ 197.71	$ 286.75	$ 377.32	$ 477.90	$ 573.38	$ 47.29
8 Cubic Yd	$ 193.70	$ 298.68	$ 382.37	$ 509.72	$ 651.28	$ 782.48	$ 63.04

COMMERCIAL RATE SCHEDULE

2018

CONTAINER SIZE	Lifts Per Week 1	2	3	4	5	6	*Extra-Lifts*
2 Cubic Yd	$ 86.05	$ 101.70	$ 171.95	$ 240.57	$ 315.56	$ 397.36	$ 16.15
3 Cubic Yd	$ 98.80	$ 129.69	$ 240.10	$ 335.89	$ 440.58	$ 554.80	$ 24.22
4 Cubic Yd	$ 99.19	$ 130.46	$ 241.26	$ 337.43	$ 442.52	$ 557.10	$ 32.28
6 Cubic Yd	$ 112.28	$ 202.44	$ 293.60	$ 386.34	$ 489.32	$ 587.08	$ 48.42
8 Cubic Yd	$ 198.33	$ 305.82	$ 391.51	$ 521.90	$ 666.85	$ 801.18	$ 64.55

CPI-All Urban Consumers (Current Series)
Original Data Value

Series Id: CUUR0000SA0
Not Seasonally Adjusted
Series Title: All items in U.S. city average, all urban
Area: U.S. city average
Item: All items
Base Period: 1982-84=100
Years: 2008 to 2018

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	HALF1	HALF2
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228	214.429	216.177
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949	213.139	215.935
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179	217.535	218.576
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672	223.598	226.280
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601	228.850	230.338
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049	232.366	233.548
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812	236.384	237.088
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525	236.265	237.769
2016	236.916	237.111	238.132	239.261	240.229	241.018	240.628	240.849	241.428	241.729	241.353	241.432	238.778	241.237
2017	242.839	243.603	243.801	244.524	244.733	244.955	244.786	245.519	246.819	246.663	246.669	246.524	244.076	246.163
2018	247.867	248.991	249.554											
YoY Change			**5.753**											
CPI			**2.36%**											

EXHIBIT "D"

Rate Increases for Year 6 and Year 7 of the Agreement

	Effective 4/1/17:Year 6	Effective 4/1/18:Year 7
Austin Community Landfill	10%	10%
Williamson County Landfill	8.5%	8.5%
Coastal Plains RDF	4.5%	4.5%
Mesquite Creek RDF	4.5%	4.5%
DFW RDF	5.0%	3.0%
Hillside RDF	5.0%	5.0%
Lacy Lakeview RDF/Temple RDF	4.5%	4.5%
Skyline RDF	5.0%	3.0%
Atascocita RDF	3.5%	4.2%
Covel Gardens RDF	3.5%	4.2%

Back to Contents

Data 1: Gulf Coast No 2 Diesel Retail Prices (Dollars per Gallon)

Sourcekey	EMD_EPD2D_PTE_R30_DPG
Date	Gulf Coast No 2 Diesel Retail Prices (Dollars per Gallon)
1994	
1995	1.068
1996	1.189
1997	1.163
1998	1.021
1999	1.084
2000	1.44
2001	1.342
2002	1.28
2003	1.453
2004	1.746
2005	2.356
2006	2.644
2007	2.823
2008	3.756
2009	2.42
2010	2.938
2011	3.775
2012	3.876
2013	3.835
2014	3.701
2015	2.576
2016	2.177
2017	2.484

Base Rate	2017 YR Avg	Differnce	% Change	Fuel Cost Adj %	Total Fuel Reduction %
$3.75	$2.48	($1.27)	-33.87%	13.20%	-4.47%

CPI %
2.36%

Landfill/Operating Cost %
4.50%

Total PI
2.39%

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 11, 2018 Dept. Clearances: Aubrey Harbin

Prepared by: Aubrey Harbin

Subject: Zone Change request – 213 E Heritage Dr. – to change from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD)

Originating Department: Community Development City Attorney Review: Yes

Proceeding: 1st reading of Ordinance

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required:	Amount Budgeted:
Appropriation Required:	Source of Funds:
FINANCE APPROVAL: N/A	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

Friendswood Health Care, an 84 bed skilled nursing facility located at 213 E Heritage Dr, was developed in the early 1970s as a nursing home (institution for the aged). A Specific Use Permit to allow the use was approved in 1974, as well as a couple of variances detailed in the Rezoning Report.

The structure sustained damage during Hurricane Harvey and was substantially damaged (more than 50% of the tax value). The existing structure meets the current flood elevation requirements – 2 feet above the 100-year base flood elevation. In order to issue building permits for reconstruction, the property/use must be in compliance with existing codes. Sometime after 1974, additional property for the existing parking lot was acquired and not included in the original SUP. Current zoning does not allow a nursing home use with a SUP in the MFR-L zoning; therefore, the applicant is requesting to change the zoning to a Planned Unit Development (PUD) due to the unique characteristics of the existing, developed tracts.

Per the attached PUD Letter, the interior of the building will be replaced and repaired as required and all windows replaced to meet current building code. The existing fire and sprinkler system will be inspected, modified and repaired to meet life safety codes. Generators will be replaced and upgraded to provide required power requirements for emergency use.

Other than repairing and replacing damaged items, the site development (buildings, parking, utility connections, landscaping, etc.) will remain as-is with no significant changes and in conformance with the site requirements in the original SUP.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Without the zoning correction, building permits cannot be issued to allow the repairs and rebuild to move forward. The site has also become somewhat of an eyesore sitting empty with fences surrounding the property; allowing them to move forward would allow them to revive the site back to its previous state and continue business operations.

RECOMMENDATIONS

The Planning and Zoning Commission voted unanimously (6-0) in favor of the requested zone change.

ATTACHMENTS

Ordinance
Exhibit A
Exhibit B
PZ Recommendation Memo

(Title: An ordinance changing the prior zoning classification of a tract of land consisting of 2.504 acres out of Lot 12 Block 2 of Friendswood Subdivision, as recorded in Volume 238, page 14, of the Office of the County Clerk of Galveston County, Texas, located at 213 E. Heritage Dr., Friendswood, Galveston County, Texas, to change from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD), as more fully described herein.)

ORDINANCE NO. T2018-19

AN ORDINANCE AMENDING APPENDIX "C" "ZONING", OF THE CODE OF ORDINANCES OF THE CITY OF FRIENDSWOOD, TEXAS, SECTION 3, "PROVISION FOR OFFICIAL ZONING MAP", REZONING THE PROPERTY GENERALLY CONSISTING OF 2.504 ACRES OUT OF LOT 12 BLOCK 2 OF FRIENDSWOOD SUBDIVISION, AS RECORDED IN VOLUME 238, PAGE 14, OF THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS, LOCATED AT 213 E. HERITAGE DR., FRIENDSWOOD, GALVESTON COUNTY, TEXAS, TO CHANGE FROM SINGLE FAMILY RESIDENTIAL (SFR), MULTI-FAMILY RESIDENTIAL LOW DENSITY (MFR-L), AND MULTI-FAMILY RESIDENTIAL LOW DENSITY / SPECIFIC USE PERMIT (MFR-L/SUP) TO PLANNED UNIT DEVELOPMENT (PUD), MORE FULLY DESCRIBED IN EXHIBIT "A", INCORPORATED BY REFERENCE, WITH SUCH PLANNED UNIT DEVELOPMENT (PUD) TO BE GOVERNED FOR ALL PURPOSES AND CONDITIONS PURSUANT TO THE ATTACHED SITE PLANS INCLUDED IN EXHIBIT "B", ALL AS MORE SPECIFICALLY PROVIDED HEREIN; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED $2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * * * * * * *

WHEREAS, Friendswood Realty LLC, (the "Owner") owner of real property located within the City, same now consisting of 2.504 acres out of Lot 12 Block 2 of Friendswood Subdivision, as recorded in Volume 238, page 14, of the Office of the County Clerk of Galveston

County, Texas, located at 213 E. Heritage Dr., Friendswood, Galveston County, Texas, has filed an application to rezone the real property from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD), property known as "Friendswood Health Care" more specifically described in Exhibit "A", including Warranty Deed, survey, aerial map, location map and zoning map, (the "Property"), pursuant to the site plans attached hereto included in Exhibit "B"; and

WHEREAS, the Planning and Zoning Commission and the City Council conducted a joint public hearing to consider such application; and

WHEREAS, the hearing was duly called as provided by the laws of the State of Texas and Appendix "C" of the Code of Ordinances of the City, ("Zoning Code"), and that in such hearing all persons attending were allowed to be heard on the question of whether or not to rezone the Property from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD), as requested in the application and as further depicted in the site plans included in Exhibit "B", to determine whether such rezoning would affect the health, safety, convenience, or general welfare of the citizens of Friendswood, and whether or not such change in zoning would violate the rights of any interested person; and

WHEREAS, pursuant to the Zoning Code, Section 7. "Schedule of District Regulations," J. "Planned Unit Development, General Purpose and Description," paragraph 7.c.1., Owner has submitted the required plans at this time and the site plan approval is included as part of the zone

change, (Option 1), copies of which are attached hereto as Exhibit "B" and incorporated by reference; and

WHEREAS, the previous Ordinance 208 which approved a Specific Use Permit for the subject property included the following site-specific conditions: 1) there is to be no access to Shady Nook, 2) a screening hedge is to be planted between the parking area and the Fred Camp property, and 3) a landscaped greenery buffer approximately 45 feet by 108 feet is to be maintained abutting Shady Nook; and

WHERAS, the following variances were approved in February 1974 for an addition to the building at that time: 1) a variance to reduce the front building line of the proposed new addition from 25 feet to 15 feet 6 inches, and 2) a variance to reduce the required off-street parking to a total of eighteen (18) cars in lieu of that required by the Zoning Ordinances and that an additional nine (9) nonconforming parking spaces be provided on Quaker Drive; and

WHEREAS, the Planning and Zoning Commission has filed its written report with City Council, which recommends approval of the application for rezoning of the subject Property; and

WHEREAS, as a result of the said public hearing, the City Council hereby finds and determines that the proposed change in zoning classification and the rezoning of the Property would not be detrimental to the community, and is in conformance with the zoning ordinance; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRIENDSWOOD, STATE OF TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, it being expressly understood that City Council of Friendswood ("City

Council') is relying upon the express representations of Owner appearing in the documents submitted for final approval, (specifically including those documents in Exhibit "B"), and the representations made at the joint public hearing before the Planning and Zoning Commission and City Council to induce approval of the rezoning made the subject of this Ordinance.

Section 2. The Friendswood City Code, Appendix C, "Zoning," Section 3, "Provision for Official Zoning Map," is hereby amended, rezoning the Property identified as a 2.504 acre tract of land out of Lot 12 Block 2 of Friendswood Subdivision, as recorded in Volume 238, page 14, of the Office of the County Clerk of Galveston County, Texas, located at 213 E. Heritage Dr., Friendswood, Galveston County, Texas, to change from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD), with such Planned Unit Development (PUD) to be governed for all purposes and conditions as depicted in Exhibits "A" and "B," (all of which are incorporated by reference), but otherwise consistent and subject to the current Zoning Code, and related conditions contained herein. This rezoning is specifically conditioned upon Owner's full compliance with Section 7. "Schedule of District Regulations," J. "Planned Unit Development, General Purpose and Description," paragraph 7.c.1. and the following use and development regulations:

1. **Land Uses:** The table below includes the permitted uses for the PUD.

NAICS Use/Description
6231 Nursing Care Facilities (Skilled Nursing Facilities)

2. **Setbacks** (per attached site plan)**:**

   Front: 15 feet

   Rear: 25 feet

   Exterior corner lot side: 90 feet

   Interior side: 10 feet

3. **Building Height and Lot Coverage:**

   Maximum building height: 40 feet

   Maximum Lot Coverage: 30%

4. **Previous conditions of Ordinance 208 (1974):**

1) There is to be no access to Shady Nook.

2) A screening hedge is to be planted between the parking area and the Fred Camp property; and

3) A landscaped greenery buffer approximately 45 feet by 108 feet is to be maintained abutting Shady Nook.

5. Previous variances approved in 1974:

1) A variance to reduce the front building line of the proposed new addition from 25 feet to 15 feet 6 inches, and

2) A variance to reduce the required off-street parking to a total of eighteen (18) cars in lieu of that required by the Zoning Ordinances and that an additional nine (9) nonconforming parking spaces be provided on Quaker Drive.

6. All other development regulations such as parking and signage will meet the current regulations of the City of Friendswood Code of Ordinances.

Section 3. The Official Zoning Map of the City of Friendswood shall be revised and amended to show the designation of the Property, as described and as provided in Section 2 above, with the appropriate reference thereon to the number and effective date of this Ordinance, and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement or revise any provision of any ordinance of the City of Friendswood, save and except the change in zoning classification of said Property as described above.

Section 5. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same, notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. Any person who shall willfully, intentionally, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not to exceed $2,000.00. Each day of violation shall constitute a separate offense.

PASSED AND APPROVED on first reading this 2nd day of July, 2018.

PASSED, APPROVED, and ADOPTED on second and final reading this 6th day of August, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

EXHIBIT “A”

1. Application
2. Warranty Deed
3. Survey and Metes and Bounds
3. Aerial map
4. Location map
5. Zoning map

EXHIBIT “B”

1. PUD Narrative
2. Cover Sheet
3. Site Plan
4. Building Elevations
5. Photometric and Landscape Plans

City of Friendswood – Community Development
910 S. Friendswood Drive
Friendswood, TX 77546
Phone: 281-996-3201 Fax: 281-996-3260
ww.ci.friendswood.tx.us

Zone Change Application

4.24.2018

CURRENT ZONE OF PROPERTY: MULTI-FAMILY RESIDENTIAL LOW DENSITY (MFR-L SUP) SINGLE FAMILY RESIDENTIAL (SFR) WITH A SUP

TYPE OF ZONE CHANGE (check one):

- ☐ Land Use Change to Zone: _____
- ☒ Planned Unit Development Option 1
- ☐ Planned Unit Development Option 2
- ☐ Specific Use Permit Option 1
- ☐ Specific Use Permit Option 2
- SUP for Use(s) #: _____

PROPERTY IDENTIFICATION:

Address: 213 EAST HERITAGE DRIVE, FRIENDSWOOD, TX

Platted Land – Plat Name: FRIENDSWOOD SUBDIVISION Lot: PART 12 Block: 2

Unplatted Land – Attach a certified metes and bounds description

OWNER NAME: Friendswood Realty, LLC Phone: (615) 896-1191

Owner's Mailing Address: 206 Fortress Boulevard

City: Murfreesboro State: TN Zip: 37128 Fax: (615) 890-7978

Owner's Email Address: rsweeney@hsminc.us

AGENT'S NAME: RIC PEARSON Phone: 281.455.0987

Agent's Mailing Address: 704 3RD ST.

City: LEAGUE CITY State: TX Zip: 77573 Fax: _____

Agent's Email Address: ricpearson64@gmail.com

In authorizing an agent to represent the owner, the owner attests that his/her agent may make verbal or written representations and/or declarations on the owner's behalf and the owner understands and acknowledges that the City of Friendswood shall rely upon the agent's representations in matters pertaining to the above described property. The designation of an agent in this matter in no way absolves the owner of any of the owner's responsibilities outlined by the City of Friendswood. The owner must be the legal owner of record of the property at the time of submittal of the application.

The undersigned hereby request approval by the City Council on the above identified zone change.

Owner's Signature _____ Date: 4/12/18

Agent's Signature: _____ Date: 4.12.18

Received By: Allaulsmo	Application Number: 2018-0010
Date of Public Hearing: 5.7.18	Received Date: 4.14.18 (revised)
Property Owner Notices: 4.20.18	Newspaper Notice: 4.16.18
	Sign on Property: 4.20.18

2010040672

4 PGS

SPECIAL WARRANTY DEED

0939345BB

THE STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF GALVESTON)

THAT **HSMTX/FRIENDSWOOD, LLC**, a Texas limited liability company, by and through it duly authorized officers, hereinafter referred to as **Grantor**, whether one or more, for and in consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration in hand paid by the Grantee herein, the receipt and sufficiency of which is hereby expressly acknowledged, has GRANTED, SOLD and CONVEYED, and by these presents does hereby GRANT, SELL and CONVEY unto **FRIENDSWOOD REALTY, LLC**, a Tennessee limited liability company, herein referred to as **Grantee**, whether one or more, the following described realty property situated in Galveston County, Texas, to-wit:

A tract of land out of and being a part of Lot Twelve (12), in Block Two (2) of FRIENDSWOOD SUBDIVISION, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 238, page 14, in the office of the County Clerk of Galveston County, Texas, said tract of land being more fully described as follows:

2.504 acres or 109,089 square feet of land out of Lot 12, Block 2 of Friendswood Subdivision, as recorded in Volume 238, page 14, of the Office of the County Clerk of Galveston County, Texas, and being all of a call 1.9909 acre tract, and a call 3,850 square feet tract as described in a deed to Samuel B. Kellett, dated December 30, 1995, recorded in Volume 2643, page 89 of the Office of the County Clerk, Galveston County, Texas (bearings based on Volume 2643, page 89) said 2.504 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 iron rod with cap set for the most Northerly corner of said call 1.9909 acre tract, same being the most North corner of said Lot 12;

THENCE South 45 deg. 00 min. 00 sec. East, along the Northeasterly line of said Lot 12, a distance of 363.00 feet to an "X" in concrete found for corner;

THENCE South 45 deg. 00 min. 00 sec. West, along the Southeasterly line of said call 1.9909 acre tract, passing at a distance of 30.00 feet a point in the Southwesterly line of Quaker Drive (60.00 foot wide right-of-way) recorded in Volume 238, page 14 of the Office of the County Clerk, Galveston County, Texas, and continuing a total distance of 408.00 feet to a "V" in concrete found for corner;

THENCE North 45 deg. 00 min. 00 sec. West, along the Southwesterly line of said call 1.9909 acre tract, a distance of 108.00 feet to a 5/8 inch rod with cap set for corner;

Return to: R. L. Buckalew
AmeriPoint Title
617 Caroline
Houston, TX 77002

THENCE North 45 deg. 00 min. 00 sec. East, along the Northwesterly line of said call 1.9909 acre tract, a distance of 153.00 feet to a 5/8 iron rod with cap set for the most South corner of said call 3,850 square feet tract;

THENCE North 45 deg. 00 min. 00 sec. West, a distance of 255.00 feet to an established point for corner;

THENCE North 45 deg. 00 min. 00 sec. East, along the Northwesterly line of said 3,850 square feet tract, and the call 1.9909 acre tract passing at a distance of 255.00 to the PLACE OF BEGINNING and containing 2.504 acres (109,089 square feet) of land.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, and the Grantee's successors and assigns forever; and Grantor does hereby bind Grantor, and Grantor's successor and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the Grantee, and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

This conveyance is made and accepted subject to all restrictions, easements, rights of way, all oil, gas and other mineral reservations and royalty interests, and all oil, gas and other mineral leases, maintenance and assessment charges and any liens securing the same, set back line, zoning laws, ordinances of municipal and other governmental authorities, and all covenants and agreements, if any, relating to the hereinabove described property, but only to the extent the same are in force and effect and shown of record in the office of the County Clerk of the County in which the herein conveyed property is located.

(Remainder of Page Intentionally Left Blank)

EXECUTED this 30th day of July, 2010.

HSMTX/Friendswood, LLC, a Texas
limited liability company

By: Eric P Sweeney
Name printed: Eric P Sweeney
Title: President

THE STATE OF Tennessee)
COUNTY OF Davidson)

This instrument was acknowledged before me on the 30 day of July, 2010, by Eric P. Sweeney, the President of HSMTX/FRIENDSWOOD, LLC, a Texas limited liability company, for and on behalf of said limited liability company.

Kimberly Brent
NOTARY PUBLIC

My Comm. Expires:
1/9/2012

KIMBERLY RENEE BRENT
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.

NOTARY PUBLIC
AT LARGE
Kimberly Renee Brent
My Commission Expires
January 9, 2012
STATE OF TENNESSEE

Address of Grantee:
Friendswood Realty, LLC
206 Fortress Blvd.
Murfreesboro, TN 37218

Prepared in the Law Office of:
Scott W. Fielding, Attorney
SHERRARD & ROE PLC
424 Church Street, Suite 2000
Nashville, Tennessee 37219
(615) 742-4200

EXHIBIT "A"

A tract of land out of and being a part of Lot Twelve (12), in Block Two (2) of FRIENDSWOOD SUBDIVISION, a subdivision in Galveston County, Texas, according to the map or plat thereof recorded in Volume 238, page 14, in the office of the County Clerk of Galveston County, Texas, said tract of land being more fully described as follows:

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NOTE: The Company does not represent that the above acreage or square footage calculations are correct.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Mary Ann Daigle

2010040672

August 17, 2010 10:17:16 AM

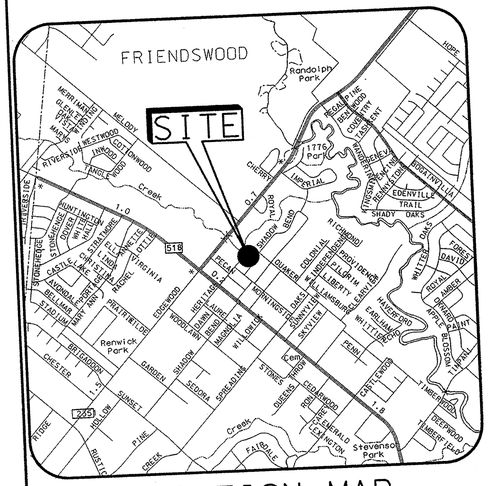
FEE: $28.00

Mary Ann Daigle, County Clerk

Galveston County, TEXAS

LEGEND

℄ = CENTER OF LINE
A/C - AIR CONDITIONER
BLDG - BUILDING
B.L. - BUILDING LINE
CB - CONTROL BOX
CLF - CHAIN LINK FENCE
CO - CLEAN OUT
CONC. - CONCRETE
E - EAST
EB - ELECTRIC BOX
EC - EDGE OF CONCRETE
F.F. - FINISHED FLOOR
FH - FIRE HYDRANT
FND - FOUND
FP - FLAG POLE
GM - GAS METER
GP - GUARD POST
GTR - GUTTER
GR - GUARD RAIL
GUY - GUY WIRE
HCS - HANDICAPPED SIGN
GCCF - GALVESTON COUNTY CLERK'S FILE
GCDR - GALVESTON COUNTY DEED RECORDS
GCDR - GALVESTON COUNTY FILM CODE
GCFC - GALVESTON COUNTY MAP RECORDS
GCMR - GALVESTON COUNTY MAP RECORDS
I.R. - IRON ROD
LS - LIGHT STANDARD
MB - MAIL BOX
MHW - MANHOLE (WASTE WATER)
NG - NATURAL GROUND
N - NORTH
P.O.B. - POINT OF BEGINNING
PP - POWER POLE
PVMT - PAVEMENT
RCP - REINFORCED CONCRETE PIPE
R.O.W. - RIGHT OF WAY
SL - STREET LIGHT
SPLE - SERVICE POLE (ELECTRIC)
S - SOUTH
SQ.FT. - SQUARE FEET
S/W - SAMPLE WELL
TB - TELEPHONE BOX
TC - TOP OF CURB
TOA - TOP OF ASPHALT
W - WEST
WM - WATER METER
WV - WATER VALVE



LOCATION MAP
(NOT TO SCALE)

FLOOD NOTE:

I have examined the Flood Insurance Rate Map No. 4854680005-E Dated: Sept. 22, 1999, the tract hereby surveyed lies within Zone "X" 500-year and "AE" inside the 100-year floodplain.

NOTE: This statement is based on scaling the location of said survey on the above reference map. This information is to determine flood insurance rates only, and not intended to identify specific flooding conditions.

Zoning Information

This Property is Zoned "SFR" for Single Family Residential according to the City Manager's Office of Friendswood at 281-996-3250.
The following Information was obtained.

REGULATION MATRIX - RESIDENTIAL DISTRICTS
Circled letters (letters in parentheses) refer to paragraphs in section 7-Q.3

				Yards - Minimum Feet								
							Side					
							Exterior (Corner Lot)					
	Units per Acre	Lot Area Minimum Square Feet	Lot Width	Front	Rear (a)	Interior (d)	Backing Up to an Abutting Side Yard	Backing Up to an Abutting Rear Yard	Height Maximum Feet (b and e)	Parking Requirement Unit	Zero Lot Lines Y or N	Maximum Lot Coverage
SFR Single Family Residential	2.7	11,600	90 A	25 B	25	10 F	25 A	20 C	35	2	No	35%
SFR Single Family Residential	2.7	15,600	120 A	25 B	25	10	25 B	20 C	40	2	No	35%
SFR - E Single Family Residential Estate	0.5	87,120	150 A	75	25	25	35	35	40	5	No	20%
MFR - L Multi Family - Low	6 G	7,260 G	45 G	25 B	25	10 E, I	25 B	20 C	35	2	No	50%
MFR - M Multi Family - Medium	9	--	--	25 B	0	10 E, I	25 B	20 C	35	2	No	50%
MFR - H Multi Family - High	12	--	--	25 B	0	10 E, I	25 B	20 C	35	2	No	50%
MHR Mobile Home	10	--	--	25 B	25	10 I	30	25 B	20	2.5	No	50%

Zoning Manual 2006
Rev. 10-06

33

Miscellaneous Notes

1.) All field measurements matched record dimensions within the precision requirements of ALTA/ACSM specifications unless otherwise shown.

2.) There appeared to be no observable evidence of heavy construction within the past month.

3.) We are not aware of changes in street right-of-ways that are adjacent to this property.

4.) There appeared to be no signs of this site being used as a solid waste dump, sump, or sanitary landfill.

5.) All utilities shown were located by visible, above-ground evidence. We refer you to 1-800-DIG-TESS for location of all utilities prior to excavation.

6. There is no observable evidence of cemetery or burial grounds on subject property.

Schedule B Items

5b Easement for public right-of-way along the Northeast 30 feet as shown on the pat of Friendswood Subdivision recorded in Volume 238, Page 14, and removed to Book 254-A, Page No. 18, in the Office of the County Clerk of Galveston County, Texas. (As plotted on Survey.)

5c. Right-of-way for Utility and Roadway 60 feet wide, granted to the City of Friendswood, by instrument recorded in Volume 2561, Page 159, in the Office of the County Clerk of Galveston County, Texas. (As plotted on Survey.)

5d. Right-of-way for Utility and Easement Agreement dated September 3, 1974, executed by and between Robert E. Gay, Trustee, Autumn Hills Convalescent Centers, Inc., and Fred Walter Camp and wife, Mary Elise Camp, recorded in Volume 2513, Page 449, in the Office of the County Clerk of Galveston County, Texas. (As plotted on Survey.)

5e. ½ of all the oil, gas and other minerals, the royalties, bonuses, rentals and all other rights in connection with same are excepted therefrom as the same are set forth in instrument recorded in Volume 597, Page 124, in the Office of the County Clerk of Galveston County, Texas. (This Item does affect property, but is not plottable.)

Legal Description

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NOTE: THIS DESCRIPTION DESCRIBES ALL THE PROPERTY DESCRIBED IN THE LEGAL DESCRIPTION SUPPLIED IN TITLE COMMITMENT IDENTIFIED AS CHICAGO TITLE INSURANCE COMPANY'S PRO FORMA POLICY G.F. No.0939345BB

ALTA/ACSM Land Title Survey

213 Heritage, Friendswood,
Galveston County, Texas 77546
FHA Project No. 114-22029

I hereby certify to the U. S. Department of Housing and Urban Development (HUD); Chicago Title Insurance Company, Red Mortgage Capital, Inc. and Friendswood Realty, LLC, and to their successors and assigns that:

(a) I, or under my direct supervision, made an on the ground survey per record description of the land shown hereon located in Friendswood, Galveston County, Texas on June 30, 2009; last revised April 13, 2010, and it and this maps were made in accordance with the HUD Survey Instructions for Health Care Facilities Insured Under Section 232 LEAN Programs dated December 2008 and the requirements for an ALTA/ACSM Land Title Survey, as defined in the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys dated 2005."

(b) To the best of my knowledge, belief and information, except as shown hereon: There are no encroachments either way across property lines; title lines and lines of actual possession are the same; and the premises are subject to a 100/500 year return frequency flood hazard, and such flood condition is shown on the Federal Insurance Rate Map, Community Panel No. 4854680005-E.

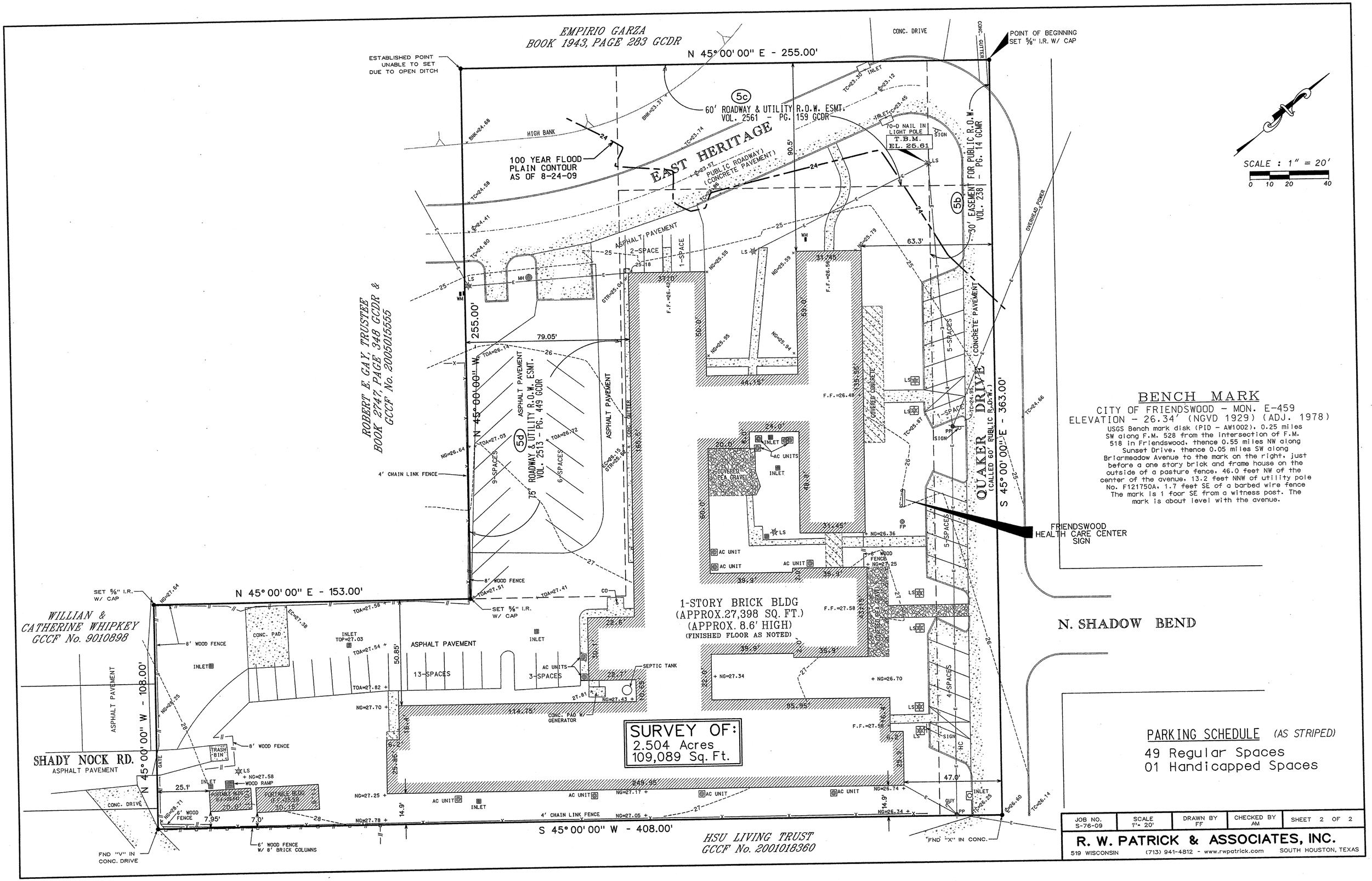
Allen E. Munz
Registered Land Surveyor No. 1855
in the State of Texas
Date of Survey 6-30-09
Date of Last Revision: 4-13-10

STATE OF TEXAS
REGISTERED
ALLEN MUNZ
1855
PROFESSIONAL
LAND SURVEYOR

R.W. Patrick & Associates, Inc.
519 Wisconsin Avenue
South Houston Texas 77587
(713) 941-4812 Ext. 307
(713) 941-4817
www.rwpatrick.com

JOB NO.	SCALE	DRAWN BY	CHECKED BY	SHEET
S-76-09	N.T.S.	FF	AM	1 OF 2

R. W. PATRICK & ASSOCIATES, INC.
519 WISCONSIN (713) 941-4812 - www.rwpatrick.com SOUTH HOUSTON, TEXAS



BENCH MARK

CITY OF FRIENDSWOOD - MON. E-459
ELEVATION - 26.34' (NGVD 1929) (ADJ. 1978)

USGS Bench mark disk (PID - AW1002), 0.25 miles SW along F.M. 528 from the intersection of F.M. 518 in Friendswood, thence 0.55 miles NW along Sunset Drive, thence 0.05 miles SW along Briarmeadow Avenue to the mark on the right, just before a one story brick and frame house on the outside of a pasture fence, 46.0 feet NW of the center of the avenue, 13.2 feet NNW of utility pole No. F121750A, 1.7 feet SE of a barbed wire fence The mark is 1 foor SE from a witness post. The mark is about level with the avenue.

PARKING SCHEDULE (AS STRIPED)

49 Regular Spaces
01 Handicapped Spaces

JOB NO.	SCALE	DRAWN BY	CHECKED BY	SHEET 2 OF 2
S-76-09	1"= 20'	FF	AM	

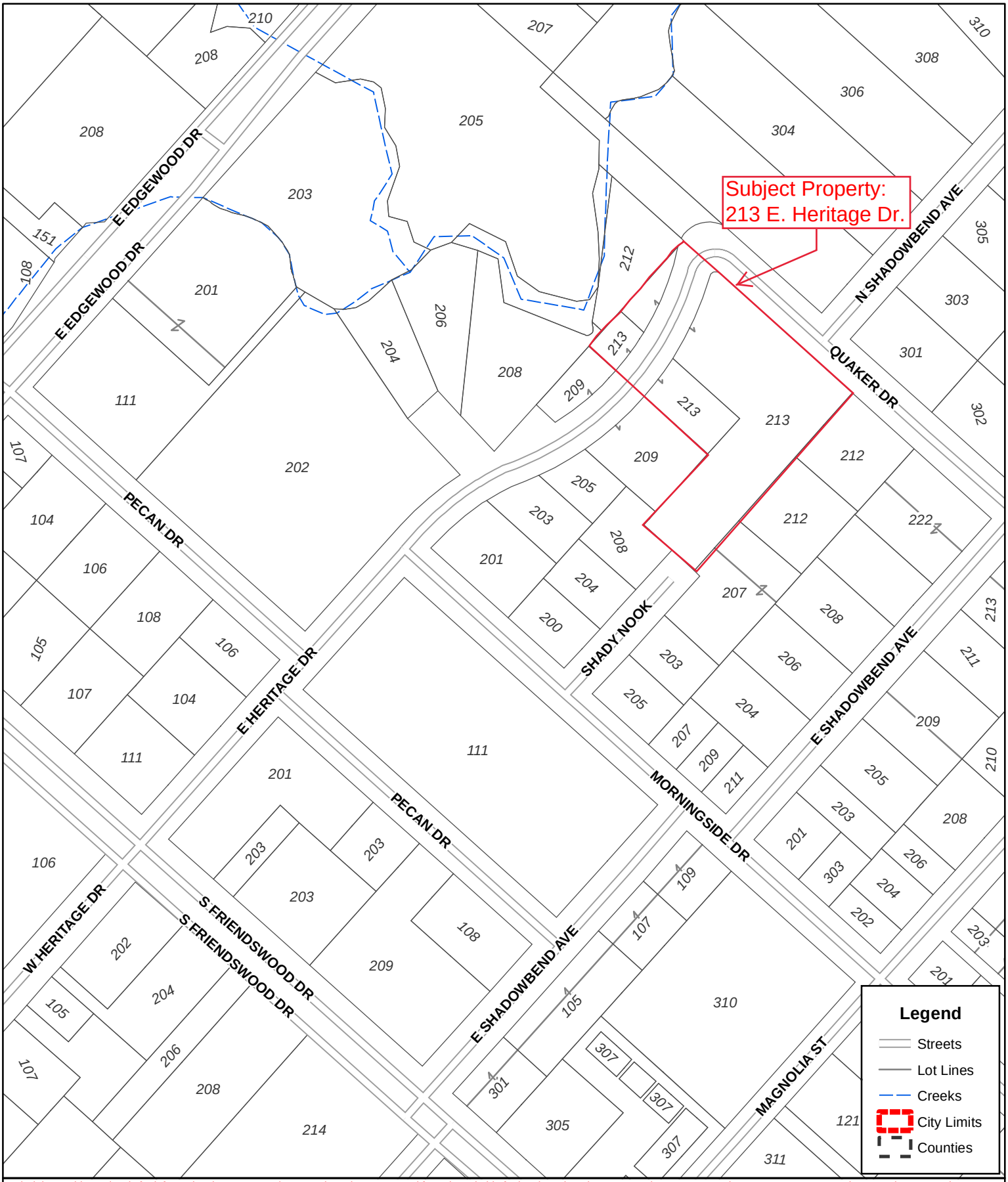
R. W. PATRICK & ASSOCIATES, INC.
519 WISCONSIN (713) 941-4812 - www.rwpatrick.com SOUTH HOUSTON, TEXAS

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. §2501.102. The user is encouraged to independently verify all information contained in this product. The City of Friendswood makes no representation or warranty as to the accuracy of this product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS, WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Friendswood from any damage, loss, or liability arising from such use.

City of Friendswood
910 South Friendswood Drive
Friendswood, Texas 77546
(281) 996-3200
www.ci.friendswood.tx.us

Friendswood GIS Mapping

1 " = 63 '



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City of Friendswood
910 South Friendswood Drive
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(281) 996-3200
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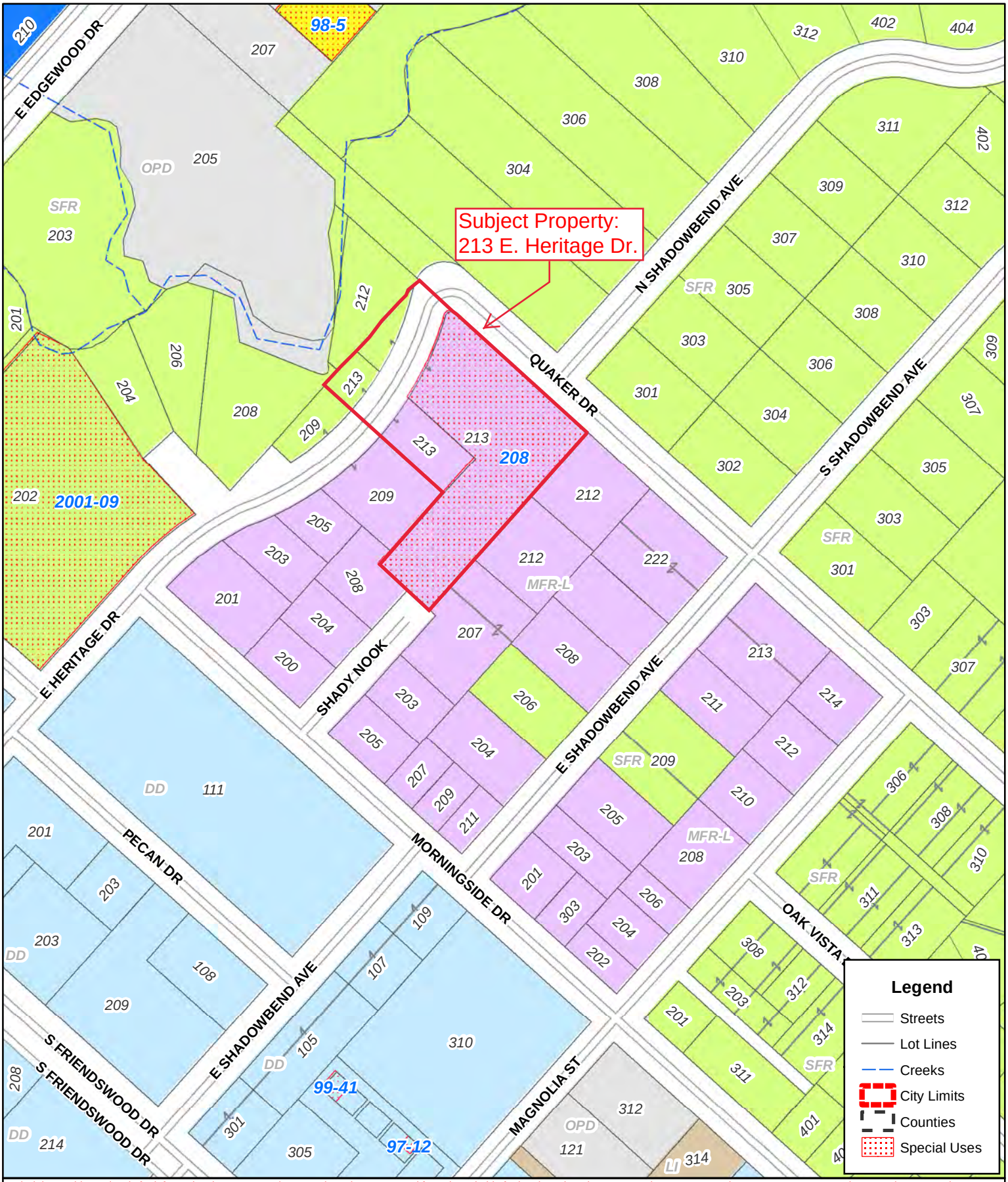
Friendswood GIS Mapping

1 " = 200 '



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(281) 996-3200
www.ci.friendswood.tx.us

Friendswood GIS Mapping

1 " = 200 '

CORRESPONDANCE

planRVW
PLANNING-RESEARCH-ARCHITECTURAL DESIGN
704 Third Street, League City TX 77573 Tel: 281.455.0987

TO: Ms. Becky Summers
Development Coordinator
CITY OF Friendswood
910 South Friendswood Drive
Friendswood, TX 77646

DATE: March 26, 2018

RE: Application to Change Zoning from SUP to PUD
FRIENDSWOOD HEALHCARE – SENIOR CARE FACILITY
2.504 Acre Tract on East Heritage
1809 East Heritage, Friendswood, TX 77646

PROJECT NO.: 1808

Dear Ms. Summers

Attached for your review is the PUD application package for the above referenced property. The property is currently zoned under a SUP. A request is being made to change the zoning for the subject tract to PUD (Planned Unit Development) to allow an overall master planning of a Skilled Nursing Facility on a 2.504 Acre Tract on East Heritage, Friendswood, Texas.

The Facility will consist of approximately 49 unit Skilled Nursing Facility from traditional assisted living to advanced memory care. The entire facility is housed in one building, on grade.

Residents will have access to a library, salon, lounge areas, dining halls as well as daily re-habilitation and specialized therapy. Breakfast, lunch and dinner will be provided in one of the two dining halls planned by the onsite nutritionist, and prepared and served by the chef and kitchen staff. Scheduled trips, indoor and outdoor activities will coordinated by the Activities Director. There are multiple units to choose from within the facility.

Total Units:

Proposed Rooms – 2018 Floor Plan

Memory Care (semi-private):	12 rooms / 24 beds
100 hall (semi-private):	16 rooms / 32 beds
200 hall (semi private):	07 rooms / 14 beds
Private wing:	14 rooms / 14 beds
Total:	49 rooms / 84 beds

Staff Ratio:

Center staffs 3 Shifts
Minimum Staffing Ratio*

1st and 2nd shift (day)
1 Licensed nurse to 20 patients
1 C.N.A. to 10 patients

3rd shift (night)
1 Licensed nurse to 30 patients
1 C.N.A. to 20 patients

City of Friendswood

Memo

To: Mayor and City Council

From: Rhonda Neel, P&Z Chairman RN (JH)

Date: June 5, 2018

Re: Zone Classification Change Request – 213 E Heritage Dr. – to change from Single Family Residential (SFR), Multi-Family Residential Low Density (MFR-L), and Multi-Family Residential Low Density / Specific Use Permit (MFR-L/SUP) to Planned Unit Development (PUD)

At the meeting held June 4, 2018, the City of Friendswood Planning and Zoning Commission voted unanimously 6 to 0 (one vacant position) to approve the zone change request referenced above.

The skilled nursing facility will consist of approximately 49 units/84 beds to provide traditional assisted living and advanced memory care. The entire facility is housed in one building. Below is a breakdown of the units.

Proposed NAICS Use: 6231, Nursing Care Facility/Skilled Nursing Facilities

Proposed Units

Memory care	12 rooms/24 beds
Assisted Living semi-private rooms	16 rooms/32 beds
Assisted Living semi-private rooms	7 rooms/14 beds
Private rooms	14 rooms/14 beds

The structure sustained damage during Hurricane Harvey and was substantially damaged (more than 50% of the tax value). The existing structure meets the current elevation requirements – 2 feet above base flood elevation. In order to issue building permits for reconstruction, the zoning must be corrected. Additional property for the existing parking lot was acquired at some point and was not included in the original SUP. Current zoning does not allow a nursing home use with a SUP in the MFR-L zoning; therefore, the applicant is

requesting to change the zoning to a Planned Unit Development (PUD) due to the unique characteristics of the existing, developed tracts.

CORRESPONDANCE

The facility is surrounded by mature landscaping to provide a relaxing and positive backdrop to all of the facility and allows numerous outdoor activities.

With this facility licensed as a "Skilled Nursing Facility" there will be a Director, a Director of Nursing, a M.D.S. Director, and a Dietician, as well as support staff, and other rehabilitation, and therapy staff.

Repairs
All walls, finishes, flooring, electric, mechanical, plumbing, and security systems and fixtures that where affected by the recent flooding will be replaced and repaired as required. Windows although not directly affected by the flooding will be replaced to meet current energy code in both insulation and reflectivity.

Fire and Life Safety
Existing fire and sprinkler system will be inspected, modified and repaired to meet all fire, sprinkler and life safety codes. Generators will also be upgraded and replaced to provide required power requirements for emergency use.

Security
The entire facility will utilize state of the art systems which both monitor and protect residents. Every resident will have a bracelet system which tracks there location, and prevents them from accessing certain areas gaining access to egress doors without notifying staff.

Traffic
We will gladly work with staff to provide a more safe, and logical means of egress throughout the site. Since the access is both public and private we look forward creating a positive solution.

Landscaping
The site has many mature trees and shrubs. All desirable landscaping is to remain. Some landscaping features will be pruned for both aesthetic and practical reasons.

Drainage
Storm water runoff from the development will drain into the current designed and utilized systems.

Water/Sewer
The proposed development will utilize the current water and sewer lines, taps, meters, grease traps, etc.

Project Phasing
The project will be revitalized in one major phase in order to eliminate stress on any residents.

Attached contract for EMS as well as Evacuation services.

We appreciate your attention with this matter and should you have any questions, please contact me at 281.455.0987.

Sincerely,

03.26.18

planRVW Date

FRIENDSWOOD HEALTH CARE CENTER

PROJECT DESCRIPTION

PROPOSED RENOVATION AND REPAIR OF A EXISTING 1-STORY SLAB-ON-GRADE S.N.F. FACILITY, BRINGING IT UP TO CURRENT BUILDING CODES WITH PARKING, UTILIZING EXISTING LANDSCAPING, CIVIL WORK, AND DRAINAGE.

213 E. HERITAGE DRIVE
FRIENDSWOOD, TEXAS

CITY OF FRIENDSWOOD, TEXAS

ARCHITECTURAL

A0.0 – COVER SHEET WITH SHEET NO. & KEY MAP
A0.1 – CODES, FIXT. COUNTS, GEN. NOTES & STDS.
A1.1 – ARCHITECTURAL SITE & PAVING PLAN
A1.2 – PHOTOMETRICS FIRE PLAN
A2.1 – FLOOR PLAN, PLAN NOTES & ROOF PLAN
A2.2 – FLOOR PLAN, PLAN NOTES & ROOF PLAN
A2.3 – FLOOR PLAN, PLAN NOTES & ROOF PLAN
A2.4 – FLOOR PLAN, PLAN NOTES & ROOF PLAN
A3.1 – BUILDING ELEVATIONS & ELEV. DETAILS

02 DRAWING INDEX

01 KEY MAP

■ PUD/SD 35%	03.26.18
□ DD 65%	0
□ CD 95%	0
□ PERMIT	0
△ REVISION 1	0
△ REVISION 2	0
△ REVISION 3	0
△ REVISION 4	0

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FRIENDSWOOD HEALTH CARE CENTER
213 E. HERITAGE DRIVE FREINDSWOOD, TEXAS

4/09/18

Planning

Written dimensions on these drawings shall have precedence over scale dimensions. Contractor shall verify and be responsible for all dimensions and conditions on the job and this office must be notified of any variation from the dimensions and conditions shown on these drawings.

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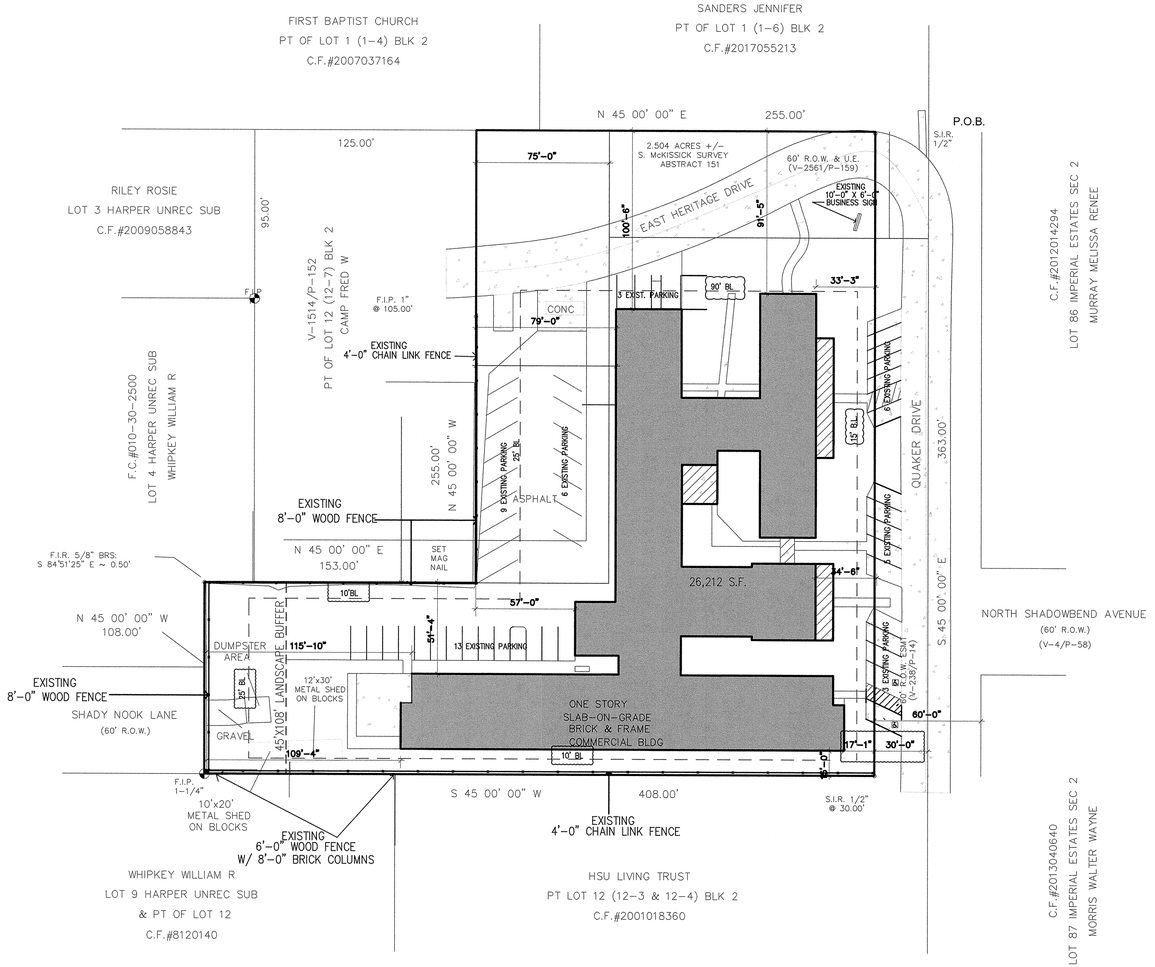
DWG. NAME: COVER SHEET

A0.0

PROJECT: 1806 213 E HERITAGE	DRAWN: LG
FILE: \friendswood Healthcare PUD.dwg	VER: RMP

E:\1018 213 HERITAGE\Friendswood Healthcare PUD SITE PLAN.aec
INFORMATION AND DATA CONTAINED IN THIS DRAWING ARE STRICTLY CONFIDENTIAL AND ARE SUPPLIED ON THE UNDERSTANDING THAT THEY WILL BE HELD CONFIDENTIALLY & NOT REPRODUCED, COPIED OR DISCLOSED TO THIRD PARTIES WITHOUT THE PRIOR WRITTEN CONSENT OF PLAN RVW, LLC



NEW REGULATION MATRIX FOR THIS PROPERTY (PER VARIANCE APP – 1974)

A) FRONT BUILDING LINE SHALL BE 15'-0"
B) REAR BUILDING LINE SHALL BE 25'-0"
C) EXTERIOR CORNER LOT SIDE BUILDING LINE SHALL BE 90'-0"
D) INTERIOR SIDE BUILDING LINE SHALL BE 10'-0"

GROUP CONVALESCENT AND NURSING HOME
PARKING CALCULATIONS

.5 SPACES PER BED	PARKING REQUIRED	PARKING PROVIDED
84 BEDS X .5	42	45 + 2 HC SPACE

NORTH

01 SITE DEVELOPMENT PLAN

1" = 40.0'

■	SD PUD 35%	03.26.18
□	DD 65%	0
□	CD 95%	0
□	PERMIT	0
△	REVISION 1	0
△	REVISION 2	04.12.18
△	REVISION 3	04.19.18
△	REVISION 4	0

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FRIENDSWOOD HEALTH CARE CENTER

213 E. HERITAGE DRIVE FRIENDSWOOD, TEXAS

KEY NOTES

SITE NOTES

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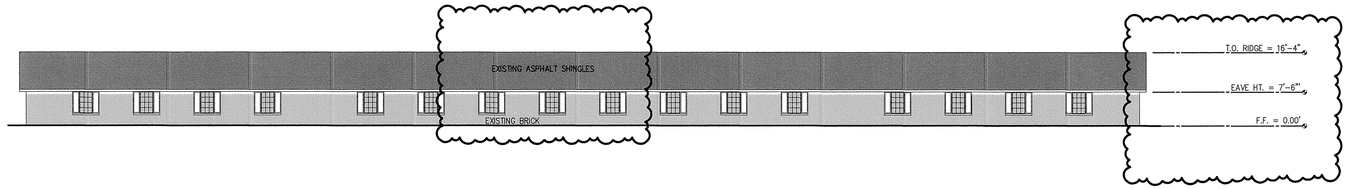
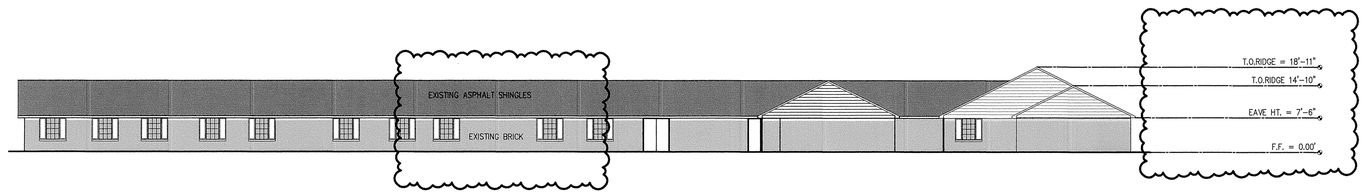
DWG. NAME: SITE PLAN

A1.1

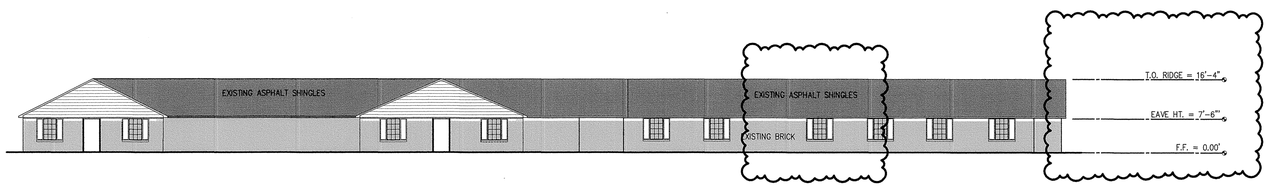
PROJECT: FRIENDSWOOD HEALTH CARE CENTER	DRAWN: LG
FILE: *FRIENDSWOOD HEALTHCARE CENTER*	VERI: RMP



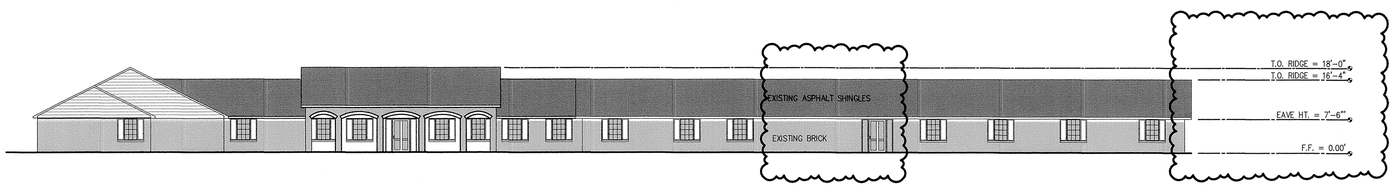
04 WEST ELEVATION — 1/16" = 1'-0"



03 SOUTH ELEVATION — 1/16" = 1'-0"



02 EAST ELEVATION — 1/16" = 1'-0"



01 SOUTH ELEVATION — 1/16" = 1'-0"

KEY NOTES

ELEV. NOTES

■	PUD/SD 35%	03.26.18
□	DD 65%	0
□	CD 95%	0
□	PERMIT	0
△	REVISION 1	0
△	REVISION 2	0
△	REVISION 3	0
△	REVISION 4	0

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FRIENDSWOOD HEALTH CARE CENTER

213 E. HERITAGE DRIVE, FREINDSWOOD, TEXAS

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DWG. NAME: ELEVATION PLANS

A3.1

PROJECT: 1808 213 E HERITAGE	DRAWN: LG
FILE: V:\friendswood Healthcare PUD.aec	VER: RMP

E:\1808 213 E HERITAGE\Friendswood Healthcare PUD.aec
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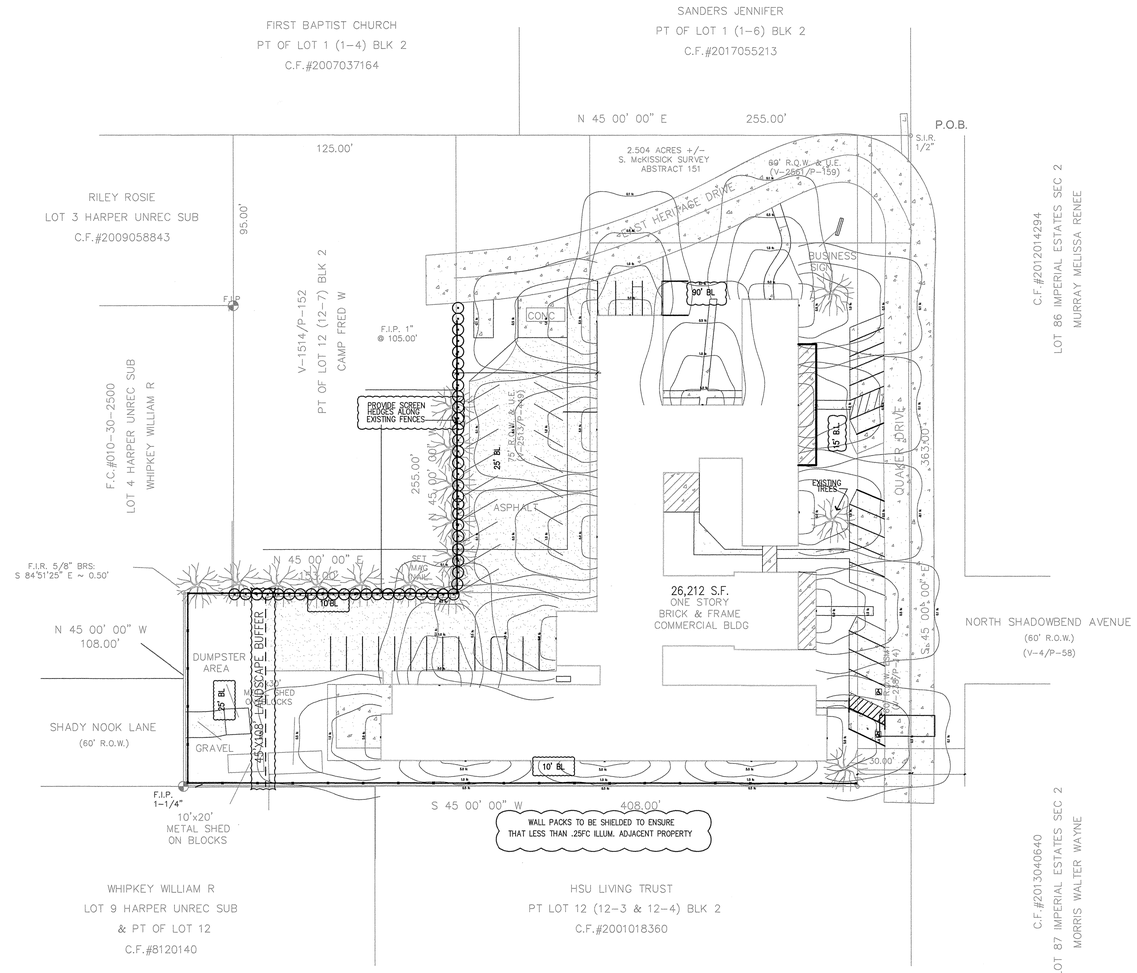

01 PHOTOMETRICS PLAN

■	SD PUD 35%	03.26.18
□	DD 65%	0
□	CD 95%	0
□	PERMIT	0
△	REVISION 1	0
△	REVISION 2	04.12.18
△	REVISION 3	0
△	REVISION 4	0

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FRIENDSWOOD HEALTH CARE CENTER

213 E. HERITAGE DRIVE FRIENDSWOOD, TEXAS

KEY NOTES

SITE NOTES

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DWG. NAME: PHOTOMETRICS PLAN

A1.2

PROJECT: FRIENDSWOOD HEALTH CARE CENTER
DRAWN: LG
FILE: V:\FRIENDSWOOD HEALTHCARE CENTER
REVIS: RMP

E:\2018 210 HERITAGE V Friendswood Healthcare PUD SITE 3.dwg
5/9/2018 4:20:24 AM BY LOURENCO IN THIS DRWG ARE STRICTLY CONFIDENTIAL AND ARE SUPPLIED ON THE UNDERSTANDING THAT THEY WILL BE HELD CONFIDENTIALLY & NOT REPRODUCED, COPIED OR DISCLOSED TO THIRD PARTIES WITHOUT THE PRIOR WRITTEN CONSENT OF PLAN.RVW, LLC

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 07/02/2018

Date Submitted: 06/28/2018 Dept. Clearances: KRH

Prepared by: Jennifer Walker

Subject: FY 2017-18 Budget Amendment X

Originating Department: Administrative Services City Attorney Review: ☒

Proceeding: Ordinances

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: $8,682,187.52 Amount Budgeted: $0

Appropriation Required: $8,682,187.52 Source of Funds: General Fund Revenues; Unassigned General Fund Balance, Police Investigation Fund Balance, PEG Channel Fees, 1776 Park Fund Balance, Water and Sewer Working Capital, 2017 W&S Bond Construction Fund Proceeds, 2017 GO Bond Proceeds

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

By its nature, our budget is an estimate of the revenues and expenditures needed to accomplish the City Council and Staff goals for the year. Throughout the year events occur that require adjustments to the budget. These adjustments may be needed for various reasons, such as the recognition of extraordinary revenues or expenditures, new projects that are authorized by Council or providing funding for expenditures resulting from extraordinary events like natural disasters. As the need arises, items for budget appropriations are accumulated and then submitted for approval at the City Council meeting each month. The budget adjustments covered by this ordinance comprise the tenth set for fiscal year 2017-18.

We have attempted to provide as much explanation of the adjustments as possible through two sets of exhibits. Exhibit A provides a narrative explanation of each budget amendment. Exhibit B provides the detail of each accounting transaction.

Ordinance and exhibits are reviewed and approved by the City Attorney prior to inclusion on a City Council meeting agenda.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Approval of this budget amendment will allow for timely procurement of program supplies and limit delays in the progress of capital improvement projects.

RECOMMENDATIONS

Recommend approval of the ordinance and exhibits covering Budget Amendment X 2017–18.

ATTACHMENTS

Ordinance
Exhibit A
Exhibit B

(Title: An Ordinance adopting Budget Amendment X to the Original General Budget of the City for Fiscal Year 2017-2018 to provide for supplemental appropriation and/or transfer of certain funds.)

ORDINANCE NO. T2018-20

AN ORDINANCE AMENDING CITY OF FRIENDSWOOD, TEXAS, ORDINANCE NO. 2017-32, PASSED AND APPROVED OCTOBER 2, 2017, SAME BEING AN ORDINANCE APPROVING AND ADOPTING THE CITY'S GENERAL BUDGET FOR FISCAL YEAR 2017-2018 BY APPROVING "BUDGET AMENDMENT X" TO THE "ORIGINAL GENERAL BUDGET OF THE CITY OF FRIENDSWOOD, TEXAS, FOR THE FISCAL YEAR 2017-2018"; PROVIDING FOR SUPPLEMENTAL APPROPRIATION AND/OR TRANSFER OF CERTAIN FUNDS; PROVIDING FOR SEVERABILITY; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT.

* * * * * * * * * *

WHEREAS, by Ordinance No. 2017-32, the City Council of the City of Friendswood, Texas, adopted its "Original General Budget for Fiscal Year 2017-2018"; and

WHEREAS, the City Council has determined that revenues and/or reserves are available for supplemental appropriation, and/or that the transfer of certain funds interdepartmentally is economically feasible and in the best interest of prudent budgeting and for municipal purposes; and

WHEREAS, Section 8.04 of The City Charter provides for amendments after adoption of the budget; and

WHEREAS, the City Council desires to amend said Original General Budget to reflect such supplemental appropriation and/or transfer in the fiscal year 2017-2018;

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The "Original General Budget of the City of Friendswood, Texas, for the Fiscal Year 2017-2018," is hereby amended for municipal purposes as shown on "Budget Amendment X" to the "Original Budget of the City of Friendswood, Texas, for the Fiscal year 2017-2018" attached hereto. Said Budget Amendment X shall be attached to and made a part of such Original General Budget by the City Secretary and shall be filed as required by state law, a true and correct copy of which is attached hereto as Exhibits "A" and "B" and made a part hereof for all purposes.

Section 3. In the event any clause, phrase, provision, sentence, or part of this ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Friendswood, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED AND APPROVED this 2nd day of July, 2018.

_____
Mike Foreman
Mayor

ATTEST:

_____
Melinda Welsh, TRMC
City Secretary

City of Friendswood
Budget Amendment Summary
Fiscal Year 2017 – 2018
Budget Amendment X
July 2, 2018

1. **Library donations, $2,832.** Appropriate funds received from the sale of books and donations received in May 2018. The appropriation will go to purchase supplies, equipment and books. The funds will be appropriated to the Library's operating budget to be used in fiscal year 2018.

2. **PEG Channel, $153.** Appropriate PEG Channel funds to reimbursement expenditures related to broadcasting the July 4th festivities. The funding source will be PEG Channel funds in the general fund balance reserves from PEG Channel revenue.

3. **Police Investigation Fund, $34,024.** Appropriate asset forfeiture funds received in the current fiscal year. Funds will be appropriated to the Police Investigation Fund (PIF) operating supplies account.

4. **Police Department RAD Program, $700.** Appropriate funds donated to the Police Department Rape Aggression Defense (R.A.D.) Program. Donations were received from the citizens participating in the R.A.D. classes. Funds will be appropriated to the Police Department Patrol for R.A.D. operating supplies related to R.A.D. program expenses and will be spent in Fiscal Year 2018.

5. **Police Department Patrol Unit, $50,244.** Appropriate funds to purchase a fully equipped and marked police vehicle and related emergency equipment for the police department. An additional police vehicle is needed with the additional of two new school resource officers at Friendswood Independent School District during the 2018-2019 school year. The funding source will be unassigned general fund balance.

6. **Parks & Recreation Donation for 4th of July Event, $7,000.** Appropriate the sponsorship fee received from Waste Connections of Texas on May 9, 2018 for the event. The appropriation will go towards the rental of the stage which will be used at the July 4th event. The appropriation will be recorded to the 4th of July operating budget.

7. **Parks & Recreation Donation for Park Maps, $1,200.** Appropriate donation received from Friendswood Chamber of Commerce and Friendswood Farmers Market for new Stevenson Park Maps.

8. **Parks & Recreation 1776 Park, $7,925.** Appropriate funding to purchase benches, picnic tables, and trash cans needed for the park. The funding source will be from the 1776 Park Trust Fund.

9. **Parks & Recreation Dog Park Donation, $25,000.** Appropriate donation received from Ron Carter Auto land in Alvin on June 22, 2018. Funds will reimburse the operating budget for park improvement expenditures already incurred.

10. **Flood Mitigation Professional Services, $50,000.** Appropriate funding for expenditure related to flood mitigation, planning, and grant management consulting services. City Council approved the contract at the April 2, 2018 council meeting. The funding source will be unassigned general fund balance.

11. **Lift Station #23, $58,361.** Appropriate funds for expenditures related to the cleaning, inspection and testing of Lift Station #23. Funds will be appropriated from the 2016 Water and Sewer Bond Construction Fund.

12. **Blackhawk Boulevard Phase II, $4,582,838.** Appropriate funds for the street reconstruction from Blackhawk Boulevard from FM 2351 to Friendswood Link Road. Council approved a contract with Joslin Construction at the April 2, 2018 council meeting. The funding source for the project will be 2017 GO Bond funds for $4,156,865 and $425,973 from the water and sewer working capital.

13. **Hurricane Harvey, $3,815,077.50.** Appropriate general fund balance 90-day reserves for Hurricane Harvey damages and recovery expenditures such as debris removal, disposal and monitoring, emergency generator rental, shelter costs, repairs of vehicles, parks, lift stations and air conditioning units.

14. **Hurricane Harvey, $46,833.02.** Appropriate funds received from Galveston County Consolidated Drainage District (GCCDD) to aid in the recovery process of Hurricane Harvey. The City had originally paid GCCDD the same amount ($46,833.02) for labor and equipment for debris removal. The funds received back will offset this expenditure.

City of Friendswood
7/2/2018
2017-18 Budget Amendment X - Exhibit B

BA Number	Account Number	Project No.	Description	Amount
1	001-0000-38600	DNMLIBREV	Appropriate donation to the Library operating budget	(102)
1	001-6310-459.5400	DNMLIBEXP	Appropriate donation to the Library operating budget for operating supplies	50
1	001-6310-459.5482	DNMLIBEXP	Appropriate donation to the Library operating budget for books	52
1	001-0000-38600	DNBOOKREV	Appropriate the sale of books to the Library operating budget	(2,730)
1	001-6310-459.5800	DNBOOKEXP	Appropriate the sale of books to the Library operating budget for equipment	2,730
2	001-0000-30500	FCPEG	Appropriate PEG Channel funds to purchase generator connection supplies for broadcast July 4th event	(153)
2	001-6430-456.5400	FCPEGEXP	Appropriate PEG Channel funds to purchase generator connection supplies for broadcast July 4th event	153
3	101-0000-30100		Appropriate funding to PIF operating budget for equipment	(34,024)
3	001-2120-421.5800		Appropriate funding to PIF operating budget for equipment	34,024
4	001-0000-38600	PDRADREV	Appropriate donations received to PDRAD operating supplies account	(700)
4	001-2120-421.5410		Appropriate donations received to PDRAD operating supplies account	700
5	001-0000-30500		Appropriate unassigned general fund balance to purchase a vehicle & equipment for Police Patrol School Resource Officer	(50,244)
5	001-2120-421.8400	P410	Appropriate unassigned general fund balance to purchase a vehicle & equipment for Police Patrol School Resource Officer	50,244
6	001-0000-34772		Appropriate sponsorship to the 4th of July operating budget to rent a stage for the event	(7,000)
6	001-6422-452.7830		Appropriate sponsorship to the 4th of July operating budget to rent a stage for the event	7,000
7	001-0000-38600	DN0018REV	Appropriate donations to the Parks division contract services budget for the Stevenson Park Map	(1,200)
7	001-6430-456.7800	DN0018EXP	Appropriate donations to the Parks division contract services budget for the Stevenson Park Map	1,200
8	701-0000-30100		Appropriate unassigned fund balance for park improvements at 1776 park	(7,925)
8	701-7001-456.8560		Appropriate unassigned fund balance for park improvements at 1776 park	7,925
9	001-0000-38600	PK0071REV	Appropriate donation received from Ron Carter for the dog park construction	(25,000)
9	001-7001-456.8560	PK0071EXP	Appropriate donation received from Ron Carter for the dog park construction	25,000
10	001-0000-30500		Appropriate unassigned general fund balance for professional services related to flood mitigation, planning, & grant management consulting services	(50,000)
10	001-0301-413.7800		Appropriate unassigned general fund balance for professional services related to flood mitigation, planning, & grant management consulting services	50,000
11	420-0000-30600		Appropriate working capital from the 2016 Water and Sewer Bond Construction Fund for expenses related to LS# 23	(58,361)
11	420-7001-433.8581	LS23	Appropriate working capital from the 2016 Water and Sewer Bond Construction Fund for expenses related to LS# 23	58,361
12	255-0000-30100		Appropriate fund balance from 2017 GO Bonds for the construction of Blackhawk Boulevard Phase II	(4,156,865)
12	255-7001-431.8511	GO1515	Appropriate fund balance from 2017 GO Bonds for the construction of Blackhawk Boulevard Phase II	4,154,914
12	255-7001-431.8519	GO1515	Appropriate fund balance from 2017 GO Bonds for the construction of Blackhawk Boulevard Phase II	1,951
12	401-0000-30100		Appropriate working capital from the Water and Sewer Fund for the construction of Blackhawk Boulevard Phase II	(425,973)
12	401-7001-434.8591	GO1515	Appropriate working capital from the Water and Sewer Fund for the construction of Blackhawk Boulevard Phase II	425,973
13	001-0000-30500		Appropriate funds from the General Fund 90 day reserve for expenditures related to Hurricane Harvey	(3,815,077.50)
13	001-2513-422.7800	17EMHARVEY	Appropriate funds for the expenditures related to Hurricane Harvey debris removal, disposal & monitoring	3,537,093.15
13	001-2513-422.7800	17EMHARVEY	Appropriate funds for expenditures related to Hurricane Harvey clean up and recovery	216,548.17
13	001-2513-422.7971	17EMHARVEY	Appropriate funds for expenditures related to Hurricane Harvey clean up and recovery	30,171.20
13	001-2513-422.5501	17EMHARVEY	Appropriate funds for expenditures related to Hurricane Harvey clean up and recovery	28,943.78
13	001-2513-422.5801	17EMHARVEY	Appropriate funds for expenditures related to Hurricane Harvey clean up and recovery	2,321.20
14	001-0000-38600	17EMHARVEY	Appropriate donation received from Galveston County Drainage District for recovery from Hurricane Harvey	(46,833.02)
14	001-2513-422.7800	17EMHARVEY	Appropriate donation received from Galveston County Drainage District for recovery from Hurricane Harvey	46,833.02

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: **July 2, 2018**

Date Submitted: **June 20, 2018** Dept. Clearances: **Parks and Recreation**

Prepared by: **James Toney**

Subject: **Buyout Property License Agreement**

Originating Department: **P&R** City Attorney Review: mkf

Proceeding: **Consent**

Degree of importance: Critical ☐ Significant X Elective ☐

Expenditure Required: N/A	Amount Budgeted: N/A
Appropriation Required: N/A	Source of Funds: N/A
FINANCE APPROVAL: krh	

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

As a result of the Tropical Storm Allison Buyout Project, the City obtained 136 residential lots. Since the completion of this project, the Parks and Recreation Department has been tasked with the mowing maintenance along with paying HOA fees for the majority of these lots. However, Parks and Recreation has continued to seek out and coordinate license agreements with other entities to help relieve the financial burden.

Thus far, 46 of these lots have been reserved for the Galveston County Consolidated Drainage District (but only four are currently maintained by GCCDD); 14 have been identified for Parks and Recreation access, 13 have been licensed to Homeowners Associations, and 31 have been licensed to individual homeowners. The remaining 32 lots are still available to interested adjacent homeowners. Note: One lot (113 Cherry Tree) was donated to the City bringing the overall total to 137 lots.

As of the last meeting between City and GCCDD staff regarding the possibility of the District taking over the maintenance of more of their reserved lots, City Staff was informed that GCCDD is not in need of additional lots.

This item is on the agenda to request a new license agreement for the property(s) located at 401 Richmond Lane. The residents wishing to license the property are Spring Janke residing at 606 Lake Forest Drive.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

If this license agreement is awarded, this lot will be licensed to an individual homeowner for the purpose of beautification, thus, allowing the Parks and Recreation Department to suspend the maintenance cost associated with this lot.

RECOMMENDATIONS

Staff recommends that Council approve the license agreement with Spring Janke residing at 606 Lake Forest Drive, and authorize the Mayor to execute the agreement on behalf of the City according to the Open Space Guidelines.

ATTACHMENTS

Licensing Agreement
Exhibit A – 401 Richmond Lane
Open Space Guidelines and Buyout Program Adjacent Homeowners Questionnaire

LICENSE AGREEMENT

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF GALVESTON	§	

This License Agreement is made and entered into this 4th day of June, 2018, by and between the City of Friendswood, Texas, a municipal corporation located in Galveston and Harris Counties, Texas, having its City Hall located at 910 South Friendswood Drive, Friendswood, Texas, hereinafter referred to as "Licensor," and Spring Janke, being located at 606 Lake Forest Drive, Friendswood, TX 77546 hereinafter referred to as "Licensee."

W I T N E S S E T H:

1. **Premises**: Licensor hereby grants to Licensee the right, privilege, and license to use the following described property located in Galveston County, Texas, hereinafter referred to as the "Premises," and being more particularly described as follows:

401 Richmond Lane
Friendswood, TX 77546

SEE EXHIBIT "A"

2. **Use**: The License granted hereby to Licensee shall and does authorize Licensee to use and occupy the Premises nonexclusively for the purpose of maintaining and using as open space, in accordance with the Licensor's open space use guidelines. Licensee is authorized to construct such improvements, and only those improvements, as may be consented to in writing by Licensor's Floodplain Manager. Licensee covenants not to use the Premises in any manner that would preclude Licensor's future use of any portion of the Premises or easement thereon consistent with the Licensor's open space guidelines. Licensor hereby reserves the right to use the Premises in the future for utilities, parks, or any other use consistent with Licensor's open space guidelines.

3. **Term**: The term of this License shall be for a period of ten (10) years, commencing on June 4, 2018 and terminating at midnight, June 4, 2028. This ten (10) year term is renewable by Licensee for one (1) additional ten (10) year term by written notice provided by Licensee to Licensor a minimum of thirty (30) days prior to the termination date of this License Agreement.

4. **Consideration**: In consideration for the License granted hereby, Licensee shall pay to the respective Home Owner's Association all Home Owners' Association fees and dues associated with the Premises each year for the term of this License Agreement (hereinafter "License Fees"). Licensee shall also maintain the Premises in accordance with all applicable ordinances of the City of Friendswood, policies of the respective Home Owner's Association, and any applicable

restrictive covenants covering the Premises.

5. **Access**: Licensee is hereby given and granted the right of ingress and egress over and across the Premises for such purposes as may be needed in conjunction with the rights granted in this License Agreement. Such right of ingress and egress shall be over existing roads, parking lots, or other roads that may be established by Licensee hereafter, subject to the prior written approval of Licensor's Flood Plain Manager. Licensee, subject to approval by Licensor's Flood Plain Manger, which approval shall not be unreasonably withheld, may improve any lands of Licensor in keeping with the purposes of the open space of the Premises.

6. **Utilities at Licensee's Cost:** Licensee shall be solely responsible for and promptly pay any and all charges for gas, electricity, telephone service, or any other utility used or consumed by Licensee on the Premises. Licensee may have an electrical current meter installed on the Premises, and Licensee thereof shall pay for the cost of such meter and of installation, maintenance, and repair.

7. **Holding Over:** If Licensee should continue occupancy of the Premises after the expiration of the primary term or any extension of this License, without the exercise of an option or the execution by Licensor and Licensee of a new License Agreement, then Licensee shall be deemed to be occupying the Premises as a licensee-at-sufferance on a month-to-month basis, subject to all the covenants and obligations of this License Agreement.

8. **Notice:** Any notice required hereunder shall be given in writing and shall be delivered by hand or sent by United States Registered or Certified Mail, postage prepaid addressed as follows:

If to Licensor:	City Friendswood, Texas 910 South Friendswood Drive Friendswood, Texas 77546 Attention: City Manager
If to Licensee:	Spring Janke 606 Lake Forest Drive Friendswood, TX 77546 springjanke@hotmail.com 713-303-1802

Either party hereto may change its address to which said notice shall be delivered or mailed by giving notice of such change as provided above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent properly by mail).

9. **Liability and Indemnity**: Licensee agrees to indemnify and save Licensor harmless from and against any and all claims (including costs and expenses of defending against such claims) arising or alleged to arise from any negligence, gross negligence, or wrongful act of whatsoever nature, of Licensee or Licensee's agents, employees, or contractors occurring or in

anywise incident to, in connection with, or arising directly or indirectly out of this License Agreement. Licensee agrees to use and occupy the Premises at its own risk and hereby releases Licensor, its officers, agents and employees, from all claims for any damage or injury caused by or as a result of any negligence or wrongful act or omission of Licensee, its officers, agents, employees, or contractors, unless due to the negligence, gross negligence, or wrongful act of whatsoever nature of Licensor, its agents or employees.

10. **Termination:** Either party hereto shall have the right to terminate this License at any time upon providing the other party thirty (30) days advance written notice. Upon notice of termination by either party, Licensee shall return the Premises to the condition of the Premises at the time of the execution of this License Agreement, normal wear and tear excepted.

11. **Defaults and Remedies**: Notwithstanding any other provision contained in this License Agreement to the contrary, Licensee shall not be in default under this License until:

A. In the case of a failure to pay License Fees or other sums due under this License, fifteen (15) days after receipt of written notice thereof from Licensor; or

B. In the case of any other default, thirty (30) days after receipt of written notice thereof from Licensor; provided, however, where any such default cannot reasonably be cured within thirty (30) days, Licensee shall not be deemed to be in default under the License if Licensee commences to cure such default within said thirty (30) day period and thereafter diligently pursues such cure to completion.

In the event of Licensee's default in the payment of License Fees or Licensee's failure to comply with any other material provision of this License, Licensor may, at its option, terminate this License without affecting its right to sue for all past due License Fees, and any other damages to which Licensor may be entitled. Should Licensor be entitled to collect License Fees or damages and be forced to do so through its attorney, or by other legal procedures, Licensor shall, upon receipt of a favorable ruling, be entitled to its reasonable costs and attorney fees thereby incurred, upon said collection.

12. **Taxes**: Licensee shall pay annually an amount equal to any increase in ad valorem taxes that may be attributable to any improvement to the Premises made by Licensee. If Licensor pays such tax, Licensee shall reimburse Licensor for the amount of any such tax payment within sixty (60) days of the receipt of sufficient documentation indicating the amount paid and the calculation of Licensee's pro-rata share. Upon written request by Licensee, Licensor shall furnish evidence of payment of all taxes.

13. **Improvements**: Licensee covenants and agrees that it will not construct, erect, or place any improvements on the Premises or other real property owned by Licensor without the prior written consent of the Licensor.

14. **Assignment**: Licensee shall not assign (by sublease or other means) any rights granted it under this License Agreement without the prior written consent of Licensor’s Floodplain

Manager, which consent shall not be unreasonably withheld.

15. **Other Conditions**:

A. Whenever under the License the consent or approval of either party is required or a determination must be made by either party, no such consent or approval shall be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner. Provided, however, nothing contained herein shall be construed to limit or restrict the exercise of Licensor of its legislative authority, specifically, but not limited to, matters relating to building, zoning, and other land development regulatory matters.

B. Licensor covenants that Licensee shall, upon the payment of License Fees and observation of covenants and conditions herein, possess the right, title, and license to use the Premises during the License Term or as may be extended without hindrance, ejection, or molestation by Licensor, or by any person claiming under Licensor or any other licensee of Licensor.

C. In the event that any government or public body shall take all or such part of the Premises thereby making it physically or financially infeasible for the Premises to be used in the manner it was intended to be used by this Agreement, Licensee shall have the right to terminate this License effective as of the date of the taking by the condemning party and the License Fees shall be prorated appropriately. However, if only a portion of the Premises is taken, and Licensee does not elect to terminate this License under this provision, then License Fees provided under this License shall be abated proportionately as to the portion taken which is not then usable by Licensee and this License shall continue.

D. Licensee shall not use the Premises in any way which interferes with the use of the surrounding Licensor property by Licensor, or lessees or licensees of Licensor, with rights in the Premises prior in time to Licensee's (subject to Licensee's rights under this License Agreement, including, without limitation, non-interference). Similarly, Licensor shall not use, nor shall Licensor permit its lessees, licensees, employees, invitees or agents to use, any portion of the Premises in any way, which interferes with the operations of Licensee. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this License immediately upon written notice.

16. **Severability and Substitution of Valid Provisions**: In the event that any provision of this Agreement shall be found to be void or unenforceable, such finding shall not be construed to render any other provision of this License either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

17. **Entire Agreement and Binding Effect**: This License and any attached exhibits signed or initialed by the parties constitute the entire agreement between Licensor and Licensee; no prior written nor prior, contemporaneous, or subsequent oral promises or representations shall be binding. This License shall not be amended, or changed except by written instrument signed by both parties hereto. Paragraph captions herein are for convenience only, and neither limit nor amplify the provisions of this instrument. The provisions of this License shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties.

IN WITNESS WHEREOF, Licensor and Licensee have executed this License Agreement as of the date and year first above written.

LICENSOR:

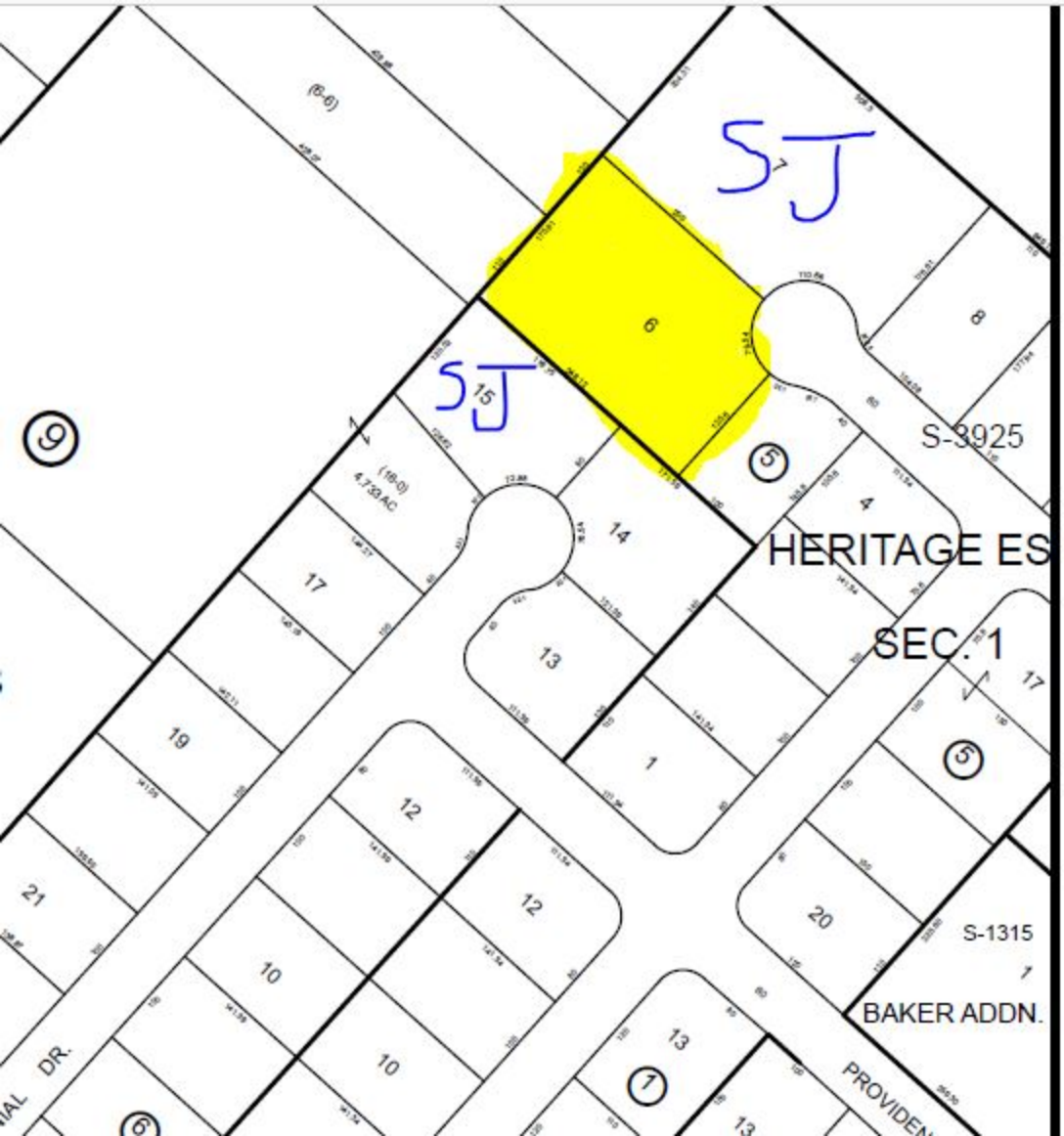
CITY OF FRIENDSWOOD, TEXAS

By: _____
Mike Foreman
Mayor

Attested: _____
Melinda Welsh
City Secretary

LICENSEE:

By: _____
Spring Janke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BAKER ADDN.
PROVIDEN
DR.

June 20, 2018

Re. City of Friendswood Open Space Licensing Program

Dear,

On June 22, 2004, the City of Friendswood received formal notification from the Governor's Division of Emergency Management that our Tropical Storm Allison Buyout Project is now closed. As you know, we had been anxiously awaiting this formal notification in order to proceed with our Open Space Licensing Program.

In order to provide the most appropriate use for each of the 136 lots obtained in the Buyout Project, our Open Space Committee identified the following priorities:

1. Galveston County Consolidated Drainage District *(Complete)*
2. City of Friendswood Parks and Recreation Department *(Complete)*
3. Homeowners Associations *(Complete)*
4. **Homeowners *(Available)***

At this time, we would like to request that you please review the enclosed information and determine if you are interested in pursuing this unique opportunity.

Specific items to note include:

- There is no direct fee associated with this Licensing Program; therefore, it is not considered a "Lease".
- The Homeowner agrees to maintain the lots to the City and HOA standards.
- The Homeowner agrees to pay any HOA dues corresponding to the Buyout lots.
- The Homeowner would be able to use the Buyout lots for open space, green space, common parks, common garden areas, etc. with the stipulation that no structures, impervious cover, or fencing be placed on the lots.

This is just a brief summary, so please refer to the actual Agreement for further details. Once you have made a decision on which lot(s) you would like included within your Licensing Agreement, please let me know by completing the attached questionnaire, so that we can draft the final documents for signature.

In order to expedite the final phase of this Program, I am requesting a response from all potential licensors of these lots within the next 30 days.

We look forward to working with you to ensure that the remaining Buyout lots are maintained in the most effective and efficient manner. If you have any questions, please do not hesitate to call 281-996-3220.

City of Friendswood
Buyout Lot Licensing Program
Adjacent Homeowner's Questionnaire

Name(s): Spring Janke

Address: 606 Lake Forest Drive

Phone: 713-303-1802

Email: springjanke@hotmail.com

I have lived at this address since*: _____

* In the event that more than one homeowner expresses interest in the same property, priority will be given to the one who has lived at their current address the longest.

I am interested in licensing the following lot(s): 401 Richmond Lane

_____

I am NOT interested in licensing any of the Buyout Lot properties. _____

Please return this form within the next 30 days to:
City of Friendswood
Parks and Recreation Department
910 S. Friendswood
Friendswood, TX 77546

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 7/2/2018

Date Submitted: 6/15/18 Dept. Clearances: Terry Byrd

Prepared by: Debbie Murphree

Subject: Purchase of FVFD Vehicle

Originating Department: FMO City Attorney Review: N/A

Proceeding: Consent

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: $40,314 Amount Budgeted: $47,314

Appropriation Required: n/a Source of Funds: FVFD Fire/EMS Donation Funds

FINANCE APPROVAL: *krh*

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The Friendswood Volunteer Fire Department is requesting Council's approval to purchase a new 2018 F150 4X4 Crew Cab to replace (Unit 2102) the Assistant Fire Chief's vehicle, a 2009 Ford Expedition.

Four quotes were obtained from the following: McRee Ford - $32,313.11, Joe Myers Ford - $52,495.00, Ron Carter - $40,516.00 and Mac Haik - $42600.92

Based on the quotes, the FVFD found McRee Ford provided the best pricing of **$32,313.11**. FVFD would be trading in the 2009 Ford Expedition with a trade-in value of **$7,000**. This vehicle has a current mileage of 60,429 miles but due to the nature of the response has more than doubled the normal ideal engine time.

Emergency lights, sirens, striping and bed mounting systems will need to be installed on the new 2018 F150 Crew Cab prior to placing the unit in service. This work will require an additional **$15,000.**

The purchase of this vehicle is noted in the FVFD narrative included in the City's FY2018 adopted budget and is listed on the FVFD 15 year Capital Equipment Replacement Plan. The purchase will not impact the City's operating budget as it will be funded by the Fire/EMS donations remitted to and managed by FVFD.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Replacement of this vehicle will allow the VFD to maintain their response fleet with reliable vehicles.

RECOMMENDATIONS

Friendswood Volunteer Fire Department requests City Council's authorization to purchase a 2018 Ford F-150 Crew Cab to replace the Assistant Fire Chief's vehicle and authorize the trade-in of the 2009 Ford Expedition.

ATTACHMENTS

McRee Ford Quote Trade-In Appraisal Ron Carter Quote
Joe Meyers Ford Quote Mac Haik Ford Quote

VIRTC1DP EN

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CNGP530                    VEHICLE ORDER CONFIRMATION          06/11/18 14:07:14
==> _________ ____________________________________                Dealer: F52052
                              2018 F-150                          Page: 1 of 1
Order No: 9989    Priority: J1  Ord FIN: QB358  Order Type: 5B Price Level: 840
Ord Code: 301A Cust/Flt Name: CTY FRIEND          PO Number:
                      RETAIL   DLR INV                          RETAIL   DLR INV
W1E  F150 4X4 CREW   $42055 $39112.00        7000# GVWR
     145" WHEELBASE                          JOB #2 ORDER
PQ   RACE RED                                FRT LICENSE BKT     NC        NC
M    PREM CLOTH                         413  SKID PLATES        160    148.00
C    MED LIGHT CAMEL                         CLASS IV HITCH
301A EQUIP GRP          2150   1979.00       MIR DUAL PWR
     .XLT SERIES                        91V  110V/400W          200    184.00
     .REAR DEFROSTER                         FLEX FUEL
     .8-WAY PWR SEAT                         SP FLT ACCT CR          (1269.00)
     .SIRIUSXM SAT                           FUEL CHARGE                10.36
     .17" SILVER ALUM                        DEST AND DELIV    1495   1495.00
995  5.0L V8 FFV ENG   1995   1836.00  TOTAL BASE AND OPTIONS 48625  44020.36
44G  ELEC 10-SPDAUTO                   XLT MID DISCOUNT       (1000)  (920.00)
     .265/70R-17                       TOTAL                  47625  43100.36
XL6  3.73 ELEC LOCK     570    525.00  *THIS IS NOT AN INVOICE*
F1=Help                F2=Return to Order            F3/F12=Veh Ord Menu
F4=Submit              F5=Add to Library
S099 - PRESS F4 TO SUBMIT                                          QC04443
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V1DP0218 2,6

Order pricing only
6-10 weeks delivery
$ 32289.36
23.75 Inspection

32313.11

DENISON "DENNY" STEPHENS
dstephens@mcreeford.com
Direct 281-337-8368
Cell 281-413-0404
Fax 281-337-4024
McRee Ford
"That's My Dealer"
www.mcreeford.com
2800 GULF FREEWAY | P.O. BOX 577 | DICKINSON, TEXAS 77539

Print window sticker

Disclaimer: This window sticker is only representative of the information contained on an actual window sticker, and may or may not match the actual window sticker on the vehicle itself. Please see your retailer for further information.

Vehicle Description

VIN 1FTEW1E56JF **C42790**

F-150

2018 F150 4X4 CREW
5.0L V8
ELEC 10-SPEED AUTO W/TOW MODE

Exterior
RACE RED
Interior
BLACKSPORT CLOTH 40/CONSOLE/40

Standard Equipment INCLUDED AT NO EXTRA CHARGE

EXTERIOR
. EASY FUEL CAPLESS FILLER
. FULLY BOXED STEEL FRAME
. HEADLAMPS - AUTOLAMP
. LOCKING REMOVABLE TAILGATE
. PICKUP BOX TIE DOWN HOOKS
. TRAILER SWAY CONTROL

INTERIOR
. 60/40 FOLD-UP REAR BENCH
. A/C W/MANUAL CLIMATE
. CRUISE CONTROL
. DUAL VISOR VANITY MIRRORS
. MAP POCKETS- DRIVER & PASS
. POWERPOINTS

FUNCTIONAL
. AUTO START STOP TECH
. DYNAMIC HITCH ASSIST
. ELECTRIC-ASSIST PARK BRAKE
. FAIL-SAFE COOLING SYSTEM
. HILL START ASSIST
. OUTBOARD MNTD REAR SHOCKS
. REAR VIEW CAMERA

SAFETY/SECURITY
. AIRBAGS - FRONT SEAT
. AIRBAGS - SAFETY CANOPY
. CTR HIGH MOUNT STOP LAMP
. SECURICODE KEYLESS KEYPAD
. TIRE PRESSURE MONITOR SYS

WARRANTY
. 5YR/60,000 POWERTRAIN
. DAYTIME RUNNING LIGHTS
. FOG LAMPS
. HALOGEN HEADLAMPS (ON/OFF)
. MANUAL FOLD POWER MIRRORS
. REAR PRIVACY GLASS
. 1TOUCH UP/DOWN DR/PASS WIN SEAT
CONTROL, SINGLE ZONE
. DOOR LOCKS - POWER
. ILLUMINATED ENTRY
. OUTSIDE TEMP DISPLAY
. TILT/TELESCOPE STR COLUMN
. 4-WHEEL DISC BRAKES W/ABS
. CURVE CONTROL
. ELECT 4X4 SHIFT-ON-FLY
. FADE-TO-OFF INTERIOR LIGHT
. GAS-CHARGED SHOCKS
. MYKEY
. PWR RACK AND PINION STEER
. SELECTSHIFT TRANSMISSION
. ADVANCETRAC WITH RSC
MOUNTED SIDE IMPACT SIDE CURTAIN
. PERIMETER ALARM
. SOS POST CRASH ALERT SYS
. 3YR/36,000 BUMPER / BUMPER
. 5YR/60,000 ROADSIDE ASSIST

Price Information	**MSRP**
STANDARD VEHICLE PRICE	**$41,960**
Included on this Vehicle	
EQUIPMENT GROUP 302A XLT SERIES	4,520
REAR-WINDOW DEFROSTER	
SIRIUS XM SATELLITE RADIO	
REMOTE START SYSTEM	
REVERSE SENSING SYSTEM	
SYNC 3	
Optional Equipment	
2018 MODEL YEAR	
RACE RED	
BLACK SPORT 40/CONSOLE/40	
5.0L V8 ELEC 10-SPEED AUTO W/TOW MODE	1,995
275/55R20 BSW ALL-TERRAIN	
3.31 ELECTRONIC LOCK RR AXLE	
7000# GVWR PACKAGE	
JOB #2 ORDER	
FRONT LICENSE PLATE BRACKET	
PRO TRAILER BACKUP ASSIST	
VOICE-ACTIVATED NAVIGATION	795
TRAILER TOW PACKAGE	995
MIRROR MAN FOLD W/POWER GLASS	
FX4 OFF-ROAD PACKAGE	770
.SKID PLATES	
20" SIX-SPOKE PAINTED ALUM WHL	1,095
36GAL EXTENDED RANGE FUEL TANK	445
XLT POWER EQUIPMENT GROUP PKG	725
.POWER-SLIDING REAR WINDOW	
.LED BOX LIGHTING	
.110V/400W OUTLET	
XLT SPORT APPEARANCE PACKAGE	300
FLEX FUEL VEHICLE	
TX BADGE	
TOTAL VEHICLE & OPTIONS	53,600
DESTINATION & DELIVERY	1,395
TOTAL BEFORE DISCOUNTS	54,995
XLT LUX CHROME OR SPRT	-1,750
XLT/LARIAT DSICT NAV	-500
XLT LUX PWR EQUIP GRP	-250
TOTAL SAVINGS	**-2,500**
TOTAL MSRP	**$52,495**

Disclaimer: Option pricing will be blank for any item that is priced as 0 or "No Charge".

Appraisal Sheet

As of June 21, 2018

McRee Ford
2800 Gulf Fwy Dickinson, TX 77539
(281) 337-1529

Customer Information

Name:
Address:
City: Select
State:
ZIP:
Email:
Phone :

Vehicle Description

Year: 2009
Make: Ford
Model: Expedition
Series: 2WD 4dr SSV
Body Style: 4D SUV RWD
Stock #:
Color:
Mileage: 60490
VIN: 1fmfu155x9la12527

Appraisal Information

Appraisal Date: 6/21/2018
Appraiser: Bob Sluss
Salesperson: N/A

Customer Note: N/A

Disclaimer: Said vehicle does not have a welded or bent frame to chassis or unibody damage and the motor block and cylinder heads are not cracked, welded, or repaired. The present engine in the vehicle is the original installed by the vehicle's manufacturer. The vehicle was never in flood and has no salvage or junk history. Said vehicle has not been in any accident that resulted in damages over $500.00 and the emission control equipment has never been altered or removed. The airbags have never been deployed. I understand that I may be responsible for any damages you may incur in the event I have misrepresented the condition of my trade-in vehicle to you.

Please circle one **Flood: No / Yes** **Frame: No / Yes** **Accident: No / Yes** **Exhaust Smoke: No / Yes**

The owner acknowledges that trade-in vehicle has not been damaged by flood, has not had frame damage, or the trade title does not and should not indicate salvage or gross polluter in any manner, regardless of state or region.

Date:

Signed (Owner):

Sales Manager:

** This appraisal is good toward the purchase of a new or pre-owned vehicle for (7) days or 150 miles from **6/21/2018** **

McRee Ford
2800 Gulf Fwy
Dickinson, TX 77539
(281) 337-1529

88-93377 / 1129
5553526895

No. 209

DATE: 6/21/2018

PAY TO THE ORDER OF: $ 7,000

Seven Thousand

Voucher Good for Purchase of Vehicle

Expiration Date: 6/28/2018 and/or 150 miles
VIN: 1fmfu155x9la12527

MEMO

⑆456397654⑆ 3154657955 0209

CITY MPG
16
HIGHWAY MPG
22

Estimated Annual Fuel Cost: $

Vehicle Engine Information

Actual mileage will vary with options, driving conditions, driving habits and vehicle's condition. Results reported to EPA indicate that the majority of vehicles with these estimates will achieve between _ and _ mpg in the city and between _ and _ mpg on the highway. **For Comparison Shopping** all vehicles classified as have been issued mileage ratings from _ to _ mpg city and _ to _ mpg highway.

EXTENDED SERVICE PLAN

Ford Extended Service Plan is the ONLY service contract backed by Ford and honored by the Ford and Lincoln dealers. Ask your dealer for prices and additional details or see our website at www.Ford-ESP.com.

Print window sticker

Disclaimer: This window sticker is only representative of the information contained on an actual window sticker, and may or may not match the actual window sticker on the vehicle itself. Please see your retailer for further information.

Vehicle Description

VIN 1FTEW1EG8JK **E06162**

F-150

2018 F150 4X4 CREW
3.5L V6 ECOBOOST
ELEC 10-SPEED AUTO W/TOW MODE

Exterior
RACE RED
Interior
BLACKSPORT CLOTH 40/CONSOLE/40

Standard Equipment INCLUDED AT NO EXTRA CHARGE

EXTERIOR
. EASY FUEL CAPLESS FILLER
. FULLY BOXED STEEL FRAME
. HEADLAMPS - AUTOLAMP
. LOCKING REMOVABLE TAILGATE
. PICKUP BOX TIE DOWN HOOKS
. TRAILER SWAY CONTROL

INTERIOR
. 60/40 FOLD-UP REAR BENCH
. A/C W/MANUAL CLIMATE
. CRUISE CONTROL
. DUAL VISOR VANITY MIRRORS
. MAP POCKETS- DRIVER & PASS
. POWERPOINTS

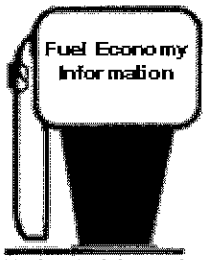
FUNCTIONAL
. AUTO START STOP TECH
. DYNAMIC HITCH ASSIST
. ELECTRIC-ASSIST PARK BRAKE
. FAIL-SAFE COOLING SYSTEM
. HILL START ASSIST
. OUTBOARD MNTD REAR SHOCKS
. REAR VIEW CAMERA

SAFETY/SECURITY
. AIRBAGS - FRONT SEAT
. AIRBAGS - SAFETY CANOPY
. CTR HIGH MOUNT STOP LAMP
. SECURICODE KEYLESS KEYPAD
. TIRE PRESSURE MONITOR SYS

WARRANTY
. 5YR/60,000 POWERTRAIN
. DAYTIME RUNNING LIGHTS
. FOG LAMPS
. HALOGEN HEADLAMPS (ON/OFF)
. MANUAL FOLD POWER MIRRORS
. REAR PRIVACY GLASS
. 1TOUCH UP/DOWN DR/PASS WIN SEAT
CONTROL, SINGLE ZONE
. DOOR LOCKS - POWER
. ILLUMINATED ENTRY
. OUTSIDE TEMP DISPLAY
. TILT/TELESCOPE STR COLUMN
. 4-WHEEL DISC BRAKES W/ABS
. CURVE CONTROL
. ELECT 4X4 SHIFT-ON-FLY
. FADE-TO-OFF INTERIOR LIGHT
. GAS-CHARGED SHOCKS
. MYKEY
. PWR RACK AND PINION STEER
. SELECTSHIFT TRANSMISSION
. ADVANCETRAC WITH RSC
MOUNTED SIDE IMPACT
SIDE CURTAIN
. PERIMETER ALARM
. SOS POST CRASH ALERT SYS
. 3YR/36,000 BUMPER / BUMPER
. 5YR/60,000 ROADSIDE ASSIST

Price Information	**MSRP**
STANDARD VEHICLE PRICE	**$42,055**
Included on this Vehicle	
EQUIPMENT GROUP 302A	4,520
XLT SERIES	
REAR-WINDOW DEFROSTER	
SIRIUS XM SATELLITE RADIO	
REMOTE START SYSTEM	
REVERSE SENSING SYSTEM	
SYNC 3	
Optional Equipment	
2018 MODEL YEAR	
RACE RED	
BLACK SPORT 40/CONSOLE/40	
3.5L V6 ECOBOOST	2,595
ELEC 10-SPEED AUTO W/TOW MODE	
275/55R20 BSW ALL-TERRAIN	
3.55 ELECTRONIC LOCK RR AXLE	
7000# GVWR PACKAGE	
JOB #2 ORDER	
FRONT LICENSE PLATE BRACKET	
PRO TRAILER BACKUP ASSIST	
VOICE-ACTIVATED NAVIGATION	795
MAX TRAILER TOW PACKAGE	1,295
.36GAL EXTENDED RANGE FUEL TAN	
.INTEGRATED TRAILER BRAKE CONT	
MIRROR MAN FOLD W/POWER GLASS	
FX4 OFF-ROAD PACKAGE	770
.SKID PLATES	
SYNC CONNECT	235
TAILGATE STEP	375
20" SIX-SPOKE PAINTED ALUM WHL	1,095
XLT POWER EQUIPMENT GROUP PKG	725
.POWER-SLIDING REAR WINDOW	
.LED BOX LIGHTING	
.110V/400W OUTLET	
XLT SPORT APPEARANCE PACKAGE	300
TX BADGE	
TOTAL VEHICLE & OPTIONS	54,760
DESTINATION & DELIVERY	1,395
TOTAL BEFORE DISCOUNTS	56,155
XLT LUX CHROME OR SPRT	-1,750
XLT/LARIAT DSICT NAV	-500
XLT LUX PWR EQUIP GRP	-250
TOTAL SAVINGS	**-2,500**
TOTAL MSRP	**$53,655**

Disclaimer: Option pricing will be blank for any item that is priced as 0 or "No Charge".



CITY MPG
17
HIGHWAY MPG
23

Estimated Annual Fuel Cost: $

Vehicle Engine Information

Actual mileage will vary with options, driving conditions, driving habits and vehicle's condition. Results reported to EPA indicate that the majority of vehicles with these estimates will achieve between _ and _ mpg in the city and between _ and _ mpg on the highway. **For Comparison Shopping** all vehicles classified as have been issued mileage ratings from _ to _ mpg city and _ to _ mpg highway.

EXTENDED SERVICE PLAN

Ford Extended Service Plan is the ONLY service contract backed by Ford and honored by the Ford and Lincoln dealers. Ask your dealer for prices and additional details or see our website at www.Ford-ESP.com.

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CNGP530                    VEHICLE ORDER CONFIRMATION            10/13/17 12:41:35
==> _________ ____________________________________________            Dealer: [redacted]
                                2018 F-150                            Page: 1 of 1
Order No: 9999    Priority: L5  Ord FIN: QB358  Order Type: 5B Price Level: 815
Ord Code: 301A Cust/Flt Name: GALV                PO Number:
                       RETAIL   DLR INV                          RETAIL   DLR INV
W1E  F150 4X4 CREW    $41725 $38804.00        7000# GVWR
     145" WHEELBASE                           FRT LICENSE BKT     NC        NC
PQ   RACE RED                          413    SKID PLATES        160    148.00
M    PREM CLOTH                               CLASS IV HITCH
C    MED LIGHT CAMEL                          MIR DUAL PWR
301A EQUIP GRP          2150   1979.00   91V  110V/400W          200    184.00
     .XLT SERIES                              FLEX FUEL
     .REAR DEFROSTER                          SP FLT ACCT CR          (1259.00)
     .8-WAY PWR SEAT                          FUEL CHARGE                8.92
     .SIRIUSXM SAT                            DEST AND DELIV    1295   1295.00
     .17" SILVER ALUM                   TOTAL BASE AND OPTIONS 48095  43520.92
995  5.0L V8 FFV ENG    1995   1836.00  XLT MID DISCOUNT       (1000)  (920.00)
44G  ELEC 10-SPDAUTO                    TOTAL                  47095  42600.92
     .265/70R-17                        *THIS IS NOT AN INVOICE*
XL6  3.73 ELEC LOCK      570    525.00
F1=Help                F2=Return to Order          F3/F12=Veh Ord Menu
F4=Submit              F5=Add to Library
S099 - PRESS F4 TO SUBMIT                                            QC04443
                                                   V1DP0107              2,6
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Print window sticker

Disclaimer: This window sticker is only representative of the information contained on an actual window sticker, and may or may not match the actual window sticker on the vehicle itself. Please see your retailer for further information.

Vehicle Description

VIN 1FTEW1E50JK **D97309**

F-150

2018 F150 4X4 CREW
5.0L V8
ELEC 10-SPEED AUTO W/TOW MODE

Exterior
RACE RED

Interior
MEDIUM LIGHT CAMELCLOTH
40/CONSOLE/40

Standard Equipment INCLUDED AT NO EXTRA CHARGE

EXTERIOR
. EASY FUEL CAPLESS FILLER
. FULLY BOXED STEEL FRAME
. HEADLAMPS - AUTOLAMP
. LOCKING REMOVABLE TAILGATE
. PICKUP BOX TIE DOWN HOOKS
. TRAILER SWAY CONTROL

INTERIOR
. 60/40 FOLD-UP REAR BENCH
. A/C W/MANUAL CLIMATE
. CRUISE CONTROL
. DUAL VISOR VANITY MIRRORS
. MAP POCKETS- DRIVER & PASS
. POWERPOINTS

FUNCTIONAL
. AUTO START STOP TECH
. DYNAMIC HITCH ASSIST
. ELECTRIC-ASSIST PARK BRAKE
. FAIL-SAFE COOLING SYSTEM
. HILL START ASSIST
. OUTBOARD MNTD REAR SHOCKS
. REAR VIEW CAMERA

SAFETY/SECURITY
. AIRBAGS - FRONT SEAT
. AIRBAGS - SAFETY CANOPY
. CTR HIGH MOUNT STOP LAMP
. SECURICODE KEYLESS KEYPAD
. TIRE PRESSURE MONITOR SYS

WARRANTY
. 5YR/60,000 POWERTRAIN
. DAYTIME RUNNING LIGHTS
. FOG LAMPS
. HALOGEN HEADLAMPS (ON/OFF)
. MANUAL FOLD POWER MIRRORS
. REAR PRIVACY GLASS
. 1TOUCH UP/DOWN DR/PASS WIN SEAT
CONTROL, SINGLE ZONE
. DOOR LOCKS - POWER
. ILLUMINATED ENTRY
. OUTSIDE TEMP DISPLAY
. TILT/TELESCOPE STR COLUMN
. 4-WHEEL DISC BRAKES W/ABS
. CURVE CONTROL
. ELECT 4X4 SHIFT-ON-FLY
. FADE-TO-OFF INTERIOR LIGHT
. GAS-CHARGED SHOCKS
. MYKEY
. PWR RACK AND PINION STEER
. SELECTSHIFT TRANSMISSION
. ADVANCETRAC WITH RSC
MOUNTED SIDE IMPACT
SIDE CURTAIN
. PERIMETER ALARM
. SOS POST CRASH ALERT SYS
. 3YR/36,000 BUMPER / BUMPER
. 5YR/60,000 ROADSIDE ASSIST

$40,516.00

Price Information	**MSRP**
STANDARD VEHICLE PRICE	**$42,055**
Included on this Vehicle	
EQUIPMENT GROUP 301A	2,150
XLT SERIES	
REAR-WINDOW DEFROSTER	
8-WAY POWER DRIVERS SEAT	
SIRIUS XM SATELLITE RADIO	
Optional Equipment	
2018 MODEL YEAR	
RACE RED	
MED CAMEL CLOTH	
40CONSOLE40	
.17" SILVER PAINTED ALUMINUM	
5.0L V8	1,995
ELEC 10-SPEED AUTO W/TOW MODE	
.265/70R 17 OWL (A/S A/T)	
3.55 ELECTRONIC LOCK RR AXLE	50
7000# GVWR PACKAGE	
JOB #2 ORDER	
CHROME STEP BARS	635
PRO TRAILER BACKUP ASSIST	
VOICE-ACTIVATED NAVIGATION	795
SYNC 3	450
TRAILER TOW PACKAGE	995
MIRROR MAN FOLD W/POWER GLASS	
FX4 OFF-ROAD PACKAGE	770
.SKID PLATES	
BOXLINK	80
REMOTE START SYSTEM	195
TAILGATE STEP	375
36GAL EXTENDED RANGE FUEL TANK	445
REVERSE SENSING SYSTEM	275
CLOTH 40/CONSOLE/40	295
110V/400W OUTLET	250
SPRAY-IN BEDLINER *ACCY	495
FLEX FUEL VEHICLE	
TOTAL VEHICLE & OPTIONS	52,305
DESTINATION & DELIVERY	1,395
TOTAL BEFORE DISCOUNTS	53,700
XLT MID DISCOUNT	-1,000
TOTAL SAVINGS	**-1,000**
TOTAL MSRP	**$52,700**

Disclaimer: Option pricing will be blank for any item that is priced as 0 or "No Charge".

Vehicle Engine Information

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: 7/2/2018

Date Submitted: 06/11/2018 Dept. Clearances: T. Byrd

Prepared by: D. Murphree

Subject: Amendment to the Contract for Debris Management Services

Originating Department: FMO City Attorney Review: mkf

Proceeding: Consent

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: Amount Budgeted:

Appropriation Required: Source of Funds:

FINANCE APPROVAL: krh

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

The City of Friendswood Hurricane Harvey debris pickup utilized a debris contract with CrowderGulf Joint Venture, LLC. This contract was awarded on April 6, 2009 and was extended by Council action for five years on March 3, 2014.

To meet FEMA stipulations for reimbursement three amendments were required after the contract was activated in September 2017. Amendment # 1 Contract to Include the Federal Contract Provisions – Equal Employment Opportunity Clause (41CFR60-1.4(b)); Amendment #2 Debris Management Services Pricing for E-Waste Removal; Amendment #3- Debris Management Services Termination Clause.

Staff is requesting Council to approve Amendment #4 of this contract. The amendment will clarify how fees for final disposal of Hazardous Household Waste are handled.

The current debris contract reads under "Note 1: Tipping fee at final disposal site(s) will be paid by the contractor and reimbursed by the City at costs." This amendment will clarify that Hazardous Household Waste, picked up by the contractor, was picked up and disposed of in the same manner.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

This amendment to this contract will assist in clarifying that all of the debris waste streams, (construction debris, woody debris, E-waste, white goods and household hazardous waste) will be handled in the same manner. This clarification will greatly assist in the City's reimbursement effort with FEMA.

RECOMMENDATIONS

Staff recommends that Council approve Amendment # 4 to our CrowderGulf debris contract.

ATTACHMENTS

Amendment 4
Contract Amendment Clarification

City of Friendswood

AMENDMENT # 4 TO RFP CONTRACT 2009-05

Debris Management Services

April 6, 2009

Pursuant to Crowder Gulf – February 12, 2014 pricing for contract renewal Debris Management Services, which was awarded in response to RFP-2009-05, the above referenced contract is hereby amended to include the following:

Figure 1 – City of Friendswood Contract Line Items

Item # 9	Pick Up and Haul Hazardous Material (Note 1)	Costs $4.00/ Per Pound

Note 1. Tipping fee at final disposal site(s) will be paid by the contractor and reimbursed by the City at costs.

City of Friendswood

By: _____
Mike Foreman
Mayor

Date: _____

CrowderGulf

By: _____
John Ramsay
President

Date: 06-19-18

CrowderGulf

Disaster Recovery and Debris Management Specialists

5435 Business Parkway
Theodore, Alabama 36582

Office: (800) 992-6207
Fax: (251) 459-7433

May 16, 2018

Terry Byrd
Emergency Management Coordinator
1600 Whitaker Drive
Friendswood, TX 77546
tbyrd@ci.friendswood.tx.us

RE: Amendment/Clarification of tipping/disposal fees

Mr. Byrd,

Please accept the following amendment as clarification of the tipping/disposal fees to the 2009-05 contract for Debris Management Services. The tipping fees at the final disposal site(s) for the following lines items will be paid by contractor and reimbursed to the contractor by the City at cost:

Item	Description	Cost	Unit
08	Pick Up and Haul of White Goods to Disposal Site within County	$25.00	Unit
09	Pick Up and Haul of Hazardous Material	$4.00	Pound
10	Freon Management and Recycling	$35.00	Unit
11	Dead Animal Collection, Transportation to Disposal Site	$0.25	Pound
12	Hazardous Stump Removal & Hauling to Disposal Site 6 inch diameter to 11.99 inch diameter	$8.00	CY
13	12 inch diameter to 23.99 inch diameter	$8.00	CY
14	24 inch diameter to 47.99 inch diameter	$200.00	Stump
15	48 inch diameter and greater	$300.00	Stump
17	Debris removal from water bodies (bays, rivers, streams, canals, lakes)	$97.00	CY
18	Debris removal from private property (Right-of-Entry Program) and Publicly Owner Property (other than Right-of-Way)	$8.50	CY
19	Leaning Trees/Hanging Limbs/Tree-off Program	$40.00	PER TREE
20	Demolition of Structures	$2.00	SQ. FEET
21	Disaster event Generated Hazardous Wastes Abatement: Bio-hazardous Wastes Abatement	$4.00	Pound

We look forward to continuing our working relationship with the City of Friendswood. Please not hesitate to let us know if any additional clarification is needed.

Best Regards,

John Ramsay
President / CEO
CrowderGulf, LLC.

Signed and Accepted /City of Friendswood

FRIENDSWOOD CITY COUNCIL AGENDA ITEM FORM

This form should be completed and forwarded to the City Manager's Office as soon as possible prior to the first date that the item is expected to be placed on the Friendswood City Council agenda.

Date requested for City Council consideration: July 2, 2018

Date Submitted: June 26, 2018 Dept. Clearances: Morad Kabiri

Prepared by: Morad Kabiri Originating Department: CMO

Subject: Ratify City Manager's Signature on Hazard Mitigation Grant Program – Buyout Application

Proceeding: Consent Agenda City Attorney Review: Yes

Degree of importance: Critical ☐ Significant ☒ Elective ☐

Expenditure Required: Amount Budgeted: N/A

Appropriation Required: Source of Funds: General Fund Balance

FINANCE APPROVAL:

MK

Morad Kabiri
City Manager

SUMMARY / ORIGINATING CAUSE

As Council is well aware, the City has been working closely with a grant administrator - - Jeffery S. Ward & Associates, Inc. (JSWA) - - on the submission of a Hazard Mitigation Grant Program (HMGP) Buyout and Elevation Application. The application, which was submitted to the Texas Division of Emergency Management (TDEM) is inclusive of 24 homes that were substantially damaged during Hurricane Harvey. Of the 24 properties on the application, 8 of them may be eligible of elevation assistance; which will be submitted later in July.

IMMINENT CONSEQUENCES / BENEFIT TO COMMUNITY

Benefits to the community include removing floodprone properties from the Special Flood Hazard Area as defined by FEMA's Flood Insurance Rate Maps.

RECOMMENDATIONS

Staff recommends Council ratify the City Manager's signature for the submission of the HMGP application

ATTACHMENTS

None

Cheryl E. Johnson
Assessor And Collector of Taxes
Galveston County

Galveston County Courthouse
722 Moody, Galveston, Texas 77550
(409) 765-3277 Toll Free (877) 766-2284 Fax (409) 766-2479
Cheryl.E.Johnson@co.galveston.tx.us

June 6, 2018

See distribution list:
The entities of the Galveston County Tax Assessor/Collector's Office

I, Cheryl E. Johnson, Tax Assessor and Collector of the County of Galveston do solemnly swear that this statement of collections made by me and the disposition thereof during the month of May, 2018 is true and correct.

Under my hand and seal this 6th day of June, 2018.

Cheryl E. Johnson
Tax Assessor/Collector

cc: Perdue, Brandon, Fielder, Collins, & Mott
Linebarger, Goggan, Blair, & Simpson
Randall Rice, County Auditor
Affiliated taxing entities (individual entity report, see distribution list)

TC298-D SELECTION: DEPOSIT
RECEIPT DATE: ALL
LOCATION: ALL

DEPOSIT DISTRIBUTION
FROM: 05/01/2018 THRU 05/31/2018
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

YEAR	FUND	TAX RATE	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	TIF AMOUNT	DISBURSE TOTAL	ATTORNEY	OTHER FEES	REFUND AMOUNT	PAYMENT AMOUNT
2017	M & O	.432349	99,624.88	.00	8,564.42	.00	108,189.30	123.17	.00	.00	108,312.47
	I & S	.095000	21,890.50	.00	1,881.84	.00	23,772.34	.00	.00	.00	23,772.34
	TOTAL	.527349	121,515.38	.00	10,446.26	.00	131,961.64	123.17	.00	.00	132,084.81
2016	M & O	.462000	3,493.20	.00	900.07	.00	4,393.27	873.38	.00	.00	5,266.65
	I & S	.084000	635.12	.00	163.66	.00	798.78	.00	.00	.00	798.78
	TOTAL	.546000	4,128.32	.00	1,063.73	.00	5,192.05	873.38	.00	.00	6,065.43
2015	M & O	.497200	678.96	.00	156.23	.00	835.19	13.41	.00	.00	848.60
	I & S	.071500	97.63	.00	22.47	.00	120.10	.00	.00	.00	120.10
	TOTAL	.568700	776.59	.00	178.70	.00	955.29	13.41	.00	.00	968.70
2014	M & O	.530300	173.78	.00	83.29	.00	257.07	39.46	.00	.00	296.53
	I & S	.061100	20.02	.00	9.59	.00	29.61	.00	.00	.00	29.61
	TOTAL	.591400	193.80	.00	92.88	.00	286.68	39.46	.00	.00	326.14
2007	M & O	.501600	66.18	.00	89.34	.00	155.52	35.74	.00	.00	191.26
	I & S	.074800	9.86	.00	13.32	.00	23.18	.00	.00	.00	23.18
	TOTAL	.576400	76.04	.00	102.66	.00	178.70	35.74	.00	.00	214.44
ALL	M & O		104,037.00	.00	9,793.35	.00	113,830.35	1,085.16	.00	.00	114,915.51
ALL	I & S		22,653.13	.00	2,090.88	.00	24,744.01	.00	.00	.00	24,744.01
ALL	TOTAL		126,690.13	.00	11,884.23	.00	138,574.36	1,085.16	.00	.00	139,659.52
DLQ	M & O		4,412.12	.00	1,228.93	.00	5,641.05	961.99	.00	.00	6,603.04
DLQ	I & S		762.63	.00	209.04	.00	971.67	.00	.00	.00	971.67
DLQ	TOTAL		5,174.75	.00	1,437.97	.00	6,612.72	961.99	.00	.00	7,574.71
CURR	M & O		99,624.88	.00	8,564.42	.00	108,189.30	123.17	.00	.00	108,312.47
CURR	I & S		21,890.50	.00	1,881.84	.00	23,772.34	.00	.00	.00	23,772.34
CURR	TOTAL		121,515.38	.00	10,446.26	.00	131,961.64	123.17	.00	.00	132,084.81

FISCAL START: 08/01/2017 END: 07/31/2018 JURISDICTION: 0337 FRIENDWD CITY

	CERT TAXABLE VALUE	ADJUSTMENTS	ADJ TAX VALUE	TAX RATE	TAX LEVY	PAID ACCTS
CURRENT YEAR	3,264,000,598	145,003,019	3,409,003,617	00.527349	17,573,092.93	15,964

YEAR	TAXES DUE	MONTH ADJ	ADJUSTMENT YTD	LEVY PAID	PAID YTD	BALANCE	COLL %	YTD UNCOLL
2017	16,816,368.54	756,724.39	756,724.39	17,125,421.07	17,125,421.07	447,671.86	97.45	0.00
2016	167,621.71	26,610.11-	26,610.11-	80,493.22	80,493.22	60,518.38	57.08	0.00
2015	43,241.57	6,676.72	6,676.72	26,348.74	26,348.74	23,569.55	52.78	0.00
2014	35,109.90	7,301.41	7,301.41	19,024.71	19,024.71	23,386.60	44.86	0.00
2013	26,342.64	7,825.77	7,825.77	16,218.18	16,218.18	17,950.23	47.47	0.00
2012	21,447.65	7,892.79	7,892.79	14,916.77	14,916.77	14,423.67	50.84	0.00
2011	15,195.88	6.49-	6.49-	1,785.66	1,785.66	13,403.73	11.76	0.00
2010	12,873.11	6.44-	6.44-	643.66	643.66	12,223.01	5.00	0.00
2009	14,414.19	.00	0.00	369.99	369.99	14,044.20	2.57	0.00
2008	10,931.67	.00	0.00	290.00	290.00	10,641.67	2.65	0.00
2007	7,336.43	.00	0.00	168.55	168.55	7,167.88	2.30	0.00
2006	4,103.27	.00	0.00	52.67	52.67	4,050.60	1.28	0.00
2005	2,532.46	.00	0.00	5.13	5.13	2,527.33	.20	0.00
2004	655.92	.00	0.00	5.43	5.43	650.49	.83	0.00
2003	652.55	.00	0.00	5.43	5.43	647.12	.83	0.00
2002	924.85	.00	0.00	0.00	0.00	924.85		0.00
2001	941.66	.00	0.00	0.00	0.00	941.66		0.00
2000	996.69	.00	0.00	0.00	0.00	996.69		0.00
1999	481.49	.00	0.00	0.00	0.00	481.49		0.00
1998	551.21	.00	0.00	0.00	0.00	551.21		0.00
1997	838.82	.00	0.00	91.20	91.20	747.62	10.87	0.00
1996	0.00	.00	0.00	0.00	0.00	0.00		0.00
****	17,183,562.21	759,798.04	759,798.04	17,285,840.41	17,285,840.41	657,519.84		0.00

REVERSALS DETAIL SCHEDULE
FROM: 05/01/2018 THRU 05/31/2018
JURISDICTION: 337 FRIENDWD CITY

YEAR	DEPOSIT	ACCOUNT NUMBER	EFF YR/MO	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	ATTORNEY	CAUSE /REV	REFUND AMOUNT	PAYMENT AMOUNT
2016	879052418CHC	1000470000005	201805	78.21-	0.00	14.08-	18.46-	CERT	0.00	110.75-
2016	879052418CHC	1000470000005	201805	78.19-	0.00	12.51-	18.14-	CERT	0.00	108.84-
2016	879052418CHC	1000470000005	201805	0.01-	0.00	0.00	0.00	CERT	0.00	0.01-
2016	RF180523	308712	201612	0.00	0.00	0.00	0.00	16S1	136.50-	136.50-
2016	RF180523	308712	201612	136.50-	0.00	0.00	0.00	16S1	136.50	0.00
2016	RF180523	351246	201612	0.00	0.00	0.00	0.00	16S1	365.23-	365.23-
2016	RF180523	351246	201612	365.23-	0.00	0.00	0.00	16S1	365.23	0.00
2016	879052118PHC	393913	201805	27.18-	0.00	7.61-	6.96-	CERT	0.00	41.75-
		2016 TOTAL		685.32-	0.00	34.20-	43.56-		0.00	763.08-
2017	879052418CHC	1000470000005	201805	716.61-	0.00	93.16-	0.00	HS01	0.00	809.77-
2017	762051418T	1050150000019	201801	416.93-	0.00	0.00	0.00	2017	0.00	416.93-
2017	786051518T	1084720000022	201801	463.55-	0.00	0.00	0.00	HS02	0.00	463.55-
2017	762050818T	1215220050004	201805	29.91-	0.00	2.69-	0.00	HK05	0.00	32.60-
2017	151052518T	1294700060029	201712	1,138.40-	0.00	0.00	0.00	2017	0.00	1,138.40-
2017	RF180524	168136	201711	270.68-	0.00	0.00	0.00	17S1	270.68	0.00
2017	RF180524	168136	201711	0.00	0.00	0.00	0.00	17S1	270.68-	270.68-
2017	RF180524	168329	201712	0.00	0.00	0.00	0.00	17S9	151.12-	151.12-
2017	RF180524	168329	201712	151.12-	0.00	0.00	0.00	17S9	151.12	0.00
2017	RF180524	168769	201712	0.00	0.00	0.00	0.00	17S9	212.14-	212.14-
2017	RF180524	168769	201712	212.14-	0.00	0.00	0.00	17S9	212.14	0.00
2017	RF180524	168945	201803	0.00	0.00	0.00	0.00	17S9	131.84-	131.84-
2017	RF180524	168945	201803	131.84-	0.00	0.00	0.00	17S9	131.84	0.00
2017	879050818PHC	201143	201804	818.99-	0.00	90.09-	0.00	TEST	0.00	909.08-
2017	RF180524	201403	201712	164.33-	0.00	0.00	0.00	17S1	164.33	0.00
2017	RF180524	201403	201712	0.00	0.00	0.00	0.00	17S1	164.33-	164.33-
2017	RF180524	202331	201801	374.44-	0.00	0.00	0.00	17S1	374.44	0.00
2017	RF180524	202331	201801	0.00	0.00	0.00	0.00	17S1	374.44-	374.44-
2017	RF180524	202787	201712	0.00	0.00	0.00	0.00	17S8	479.86-	479.86-
2017	RF180524	202787	201712	479.86-	0.00	0.00	0.00	17S8	479.86	0.00
2017	RF180524	202902	201801	395.72-	0.00	0.00	0.00	17S1	395.72	0.00
2017	RF180524	202902	201801	0.00	0.00	0.00	0.00	17S1	395.72-	395.72-
2017	RF180524	203332	201712	533.40-	0.00	0.00	0.00	17S9	533.40	0.00
2017	RF180524	203332	201712	0.00	0.00	0.00	0.00	17S9	533.40-	533.40-
2017	RF180524	218851	201712	349.98-	0.00	0.00	0.00	17S1	349.98	0.00
2017	RF180524	218851	201712	0.00	0.00	0.00	0.00	17S1	349.98-	349.98-
2017	RF180524	219314	201712	0.00	0.00	0.00	0.00	17S1	354.84-	354.84-
2017	RF180524	219314	201712	354.84-	0.00	0.00	0.00	17S1	354.84	0.00
2017	RF180524	287505	201712	269.02-	0.00	0.00	0.00	17S8	269.02	0.00
2017	RF180524	287505	201712	0.00	0.00	0.00	0.00	17S8	269.02-	269.02-
2017	RF180524	288612	201712	0.00	0.00	0.00	0.00	17S8	131.84-	131.84-
2017	RF180524	288612	201712	131.84-	0.00	0.00	0.00	17S8	131.84	0.00
2017	RF180524	288672	201712	280.69-	0.00	0.00	0.00	17S8	280.69	0.00

REVERSALS DETAIL SCHEDULE
FROM: 05/01/2018 THRU 05/31/2018
JURISDICTION: 337 FRIENDWD CITY

YEAR	DEPOSIT	ACCOUNT NUMBER	EFF YR/MO	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	ATTORNEY	CAUSE /REV	REFUND AMOUNT	PAYMENT AMOUNT
2017	RF180524	288672	201712	0.00	0.00	0.00	0.00	17S8	280.69-	280.69-
2017	RF180524	292405	201801	0.00	0.00	0.00	0.00	17S9	283.55-	283.55-
2017	RF180524	292405	201801	283.55-	0.00	0.00	0.00	17S9	283.55	0.00
2017	RF180524	304541	201801	820.68-	0.00	0.00	0.00	17S1	820.68	0.00
2017	RF180524	304541	201801	0.00	0.00	0.00	0.00	17S1	820.68-	820.68-
2017	RF180524	306814	201710	0.00	0.00	0.00	0.00	17S9	131.83-	131.83-
2017	RF180524	306814	201710	131.83-	0.00	0.00	0.00	17S9	131.83	0.00
2017	RF180524	306854	201712	0.00	0.00	0.00	0.00	17S8	365.06-	365.06-
2017	RF180524	306854	201712	365.06-	0.00	0.00	0.00	17S8	365.06	0.00
2017	RF180524	308712	201712	0.00	0.00	0.00	0.00	17S9	214.96-	214.96-
2017	RF180524	308712	201712	214.96-	0.00	0.00	0.00	17S9	214.96	0.00
2017	762051418T	310867	201802	0.59-	0.00	0.04-	0.00	02S1	0.00	0.63-
2017	762051418T	310867	201802	395.34-	0.00	0.00	0.00	02S1	0.00	395.34-
2017	762051418T	310867	201802	395.42-	0.00	0.00	0.00	02S1	0.00	395.42-
2017	762051418T	310867	201802	395.42-	0.00	0.00	0.00	02S1	0.00	395.42-
2017	RF180524	310884	201801	0.00	0.00	0.00	0.00	17S1	371.34-	371.34-
2017	RF180524	310884	201801	371.34-	0.00	0.00	0.00	17S1	371.34	0.00
2017	RF180524	351246	201712	0.00	0.00	0.00	0.00	17S9	352.75-	352.75-
2017	RF180524	351246	201712	352.75-	0.00	0.00	0.00	17S9	352.75	0.00
2017	RF180524	357499	201712	364.23-	0.00	0.00	0.00	17S9	364.23	0.00
2017	RF180524	357499	201712	0.00	0.00	0.00	0.00	17S9	364.23-	364.23-
2017	RF180524	380020	201712	0.00	0.00	0.00	0.00	17S1	817.63-	817.63-
2017	RF180524	380020	201712	817.63-	0.00	0.00	0.00	17S1	817.63	0.00
2017	RF180524	380031	201712	0.00	0.00	0.00	0.00	17S9	344.41-	344.41-
2017	RF180524	380031	201712	344.41-	0.00	0.00	0.00	17S9	344.41	0.00
2017	RF180524	380073	201712	131.84-	0.00	0.00	0.00	17S9	131.84	0.00
2017	RF180524	380073	201712	0.00	0.00	0.00	0.00	17S9	131.84-	131.84-
2017	RF180524	392271	201801	0.00	0.00	0.00	0.00	17S1	127.83-	127.83-
2017	RF180524	392271	201801	127.83-	0.00	0.00	0.00	17S1	127.83	0.00
2017	RF180524	394253	201712	0.00	0.00	0.00	0.00	17S9	495.68-	495.68-
2017	RF180524	394253	201712	495.68-	0.00	0.00	0.00	17S9	495.68	0.00
2017	RF180524	409045	201712	0.00	0.00	0.00	0.00	17S8	181.92-	181.92-
2017	RF180524	409045	201712	181.92-	0.00	0.00	0.00	17S8	181.92	0.00
2017	RF180524	411095	201712	164.33-	0.00	0.00	0.00	17S1	164.33	0.00
2017	RF180524	411095	201712	0.00	0.00	0.00	0.00	17S1	164.33-	164.33-
2017	RF180524	412747	201712	0.00	0.00	0.00	0.00	17S8	364.94-	364.94-
2017	RF180524	412747	201712	364.94-	0.00	0.00	0.00	17S8	364.94	0.00
2017	807757052418	413127	201805	372.48-	0.00	0.00	0.00	17S7	0.00	372.48-
2017	807757052418	413127	201805	0.01-	0.00	0.00	0.00	17S7	0.00	0.01-
2017	RF180524	413243	201801	524.72-	0.00	0.00	0.00	17S1	524.72	0.00
2017	RF180524	413243	201801	0.00	0.00	0.00	0.00	17S1	524.72-	524.72-
2017	RF180524	423164	201711	315.77-	0.00	0.00	0.00	17S1	315.77	0.00
2017	RF180524	423164	201711	0.00	0.00	0.00	0.00	17S1	315.77-	315.77-
2017	RF180524	508818	201712	0.00	0.00	0.00	0.00	17S8	337.84-	337.84-
2017	RF180524	508818	201712	337.84-	0.00	0.00	0.00	17S8	337.84	0.00

REVERSALS DETAIL SCHEDULE
FROM: 05/01/2018 THRU 05/31/2018
JURISDICTION: 337 FRIENDWD CITY

YEAR	DEPOSIT	ACCOUNT NUMBER	EFF YR/MO	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	ATTORNEY	CAUSE /REV	REFUND AMOUNT	PAYMENT AMOUNT
2017	RF180524	512107	201712	0.00	0.00	0.00	0.00	17S1	1,547.38-	1,547.38-
2017	RF180524	512107	201712	1,547.38-	0.00	0.00	0.00	17S1	1,547.38	0.00
2017	151052518T	516101	201712	1,860.66-	0.00	0.00	0.00	TEST	0.00	1,860.66-
2017	RF180524	516835	201712	658.85-	0.00	0.00	0.00	17S9	658.85	0.00
2017	RF180524	516835	201712	0.00	0.00	0.00	0.00	17S9	658.85-	658.85-
2017	RF180524	516838	201712	0.00	0.00	0.00	0.00	17S9	689.89-	689.89-
2017	RF180524	516838	201712	689.89-	0.00	0.00	0.00	17S9	689.89	0.00
2017	RF180524	518296	201803	0.00	0.00	0.00	0.00	17S9	851.27-	851.27-
2017	RF180524	518296	201803	780.98-	0.00	70.29-	0.00	17S9	851.27	0.00
2017	RF180524	518350	201712	492.97-	0.00	0.00	0.00	17S9	492.97	0.00
2017	RF180524	518350	201712	0.00	0.00	0.00	0.00	17S9	492.97-	492.97-
2017	RF180524	524701	201712	1,170.17-	0.00	0.00	0.00	17S1	1,170.17	0.00
2017	RF180524	524701	201712	0.00	0.00	0.00	0.00	17S1	1,170.17-	1,170.17-
2017	RF180524	600367	201712	650.70-	0.00	0.00	0.00	17S1	650.70	0.00
2017	RF180524	600367	201712	0.00	0.00	0.00	0.00	17S1	650.70-	650.70-
2017	RF180524	602569	201801	0.00	0.00	0.00	0.00	17S1	71.67-	71.67-
2017	RF180524	602569	201801	71.67-	0.00	0.00	0.00	17S1	71.67	0.00
2017	RF180524	605177	201712	445.54-	0.00	0.00	0.00	17S9	445.54	0.00
2017	RF180524	605177	201712	0.00	0.00	0.00	0.00	17S9	445.54-	445.54-
2017	RF180524	605801	201804	275.52-	0.00	30.30-	0.00	17S1	305.82	0.00
2017	RF180524	605801	201804	0.00	0.00	0.00	0.00	17S1	305.82-	305.82-
2017	RF180524	605867	201712	0.00	0.00	0.00	0.00	17S1	480.20-	480.20-
2017	RF180524	605867	201712	480.20-	0.00	0.00	0.00	17S1	480.20	0.00
2017	RF180524	606645	201712	381.90-	0.00	0.00	0.00	17S9	381.90	0.00
2017	RF180524	606645	201712	0.00	0.00	0.00	0.00	17S9	381.90-	381.90-
2017	RF180524	606690	201712	795.69-	0.00	0.00	0.00	17S9	795.69	0.00
2017	RF180524	606690	201712	0.00	0.00	0.00	0.00	17S9	795.69-	795.69-
2017	RF180524	608805	201712	1,170.17-	0.00	0.00	0.00	17S1	1,170.17	0.00
2017	RF180524	608805	201712	0.00	0.00	0.00	0.00	17S1	1,170.17-	1,170.17-
2017	RF180524	610599	201712	0.00	0.00	0.00	0.00	17S9	533.47-	533.47-
2017	RF180524	610599	201712	533.47-	0.00	0.00	0.00	17S9	533.47	0.00
2017	RF180524	610691	201801	488.49-	0.00	0.00	0.00	17S8	488.49	0.00
2017	RF180524	610691	201801	0.00	0.00	0.00	0.00	17S8	488.49-	488.49-
2017	RF180524	711450	201711	0.00	0.00	0.00	0.00	17S8	172.44-	172.44-
2017	RF180524	711450	201711	172.44-	0.00	0.00	0.00	17S8	172.44	0.00
		2017 TOTAL		28,621.55-	0.00	286.57-	0.00		0.00	28,908.12-

REVERSALS DETAIL SCHEDULE
FROM: 05/01/2018 THRU 05/31/2018
JURISDICTION: 337 FRIENDWD CITY

YEAR	DEPOSIT	ACCOUNT NUMBER	EFF YR/MO	LEVY PAID	DISCOUNT GIVEN	PENALTY INTEREST	ATTORNEY CAUSE /REV	REFUND AMOUNT	PAYMENT AMOUNT
		TOTAL REVERSALS		29,306.87-	0.00	320.77-	43.56-	0.00	29,671.20-

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	4,271,816,787	3,655,904,976	43,854,897	42,910-	43,811,987	3,699,716,963
AG EXCLUSION	18,989,755	18,989,755	821,389	263,590-	557,799	19,547,554
IMPROVEMENTS	615,911,811	615,911,811	144,506,899	2,998,311-	141,508,588	757,420,399
APPRAISED VALUE	4,271,816,787	4,271,816,787	188,361,796	3,041,221-	185,320,575	4,457,137,362
EXEMPTIONS	988,826,434	988,826,434	32,113,942	7,645,815	40,317,556	1,029,143,990
TAXABLE VALUE	3,264,000,598	3,264,000,598	155,426,465	10,423,446-	145,003,019	3,409,003,617
LEVY	16,816,368.54	16,816,368.54	1,049,729.71	293,005.32-	756,724.39	17,573,092.93
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	10,005	10,005	463	92	95	10,100
OVER 65	2,854	2,854	95	36	36	2,890
DISABLED	0	0	13	7	7	7
VETERAN	207	207	12	10	10	217
TOTAL EXEMPT	647	647	0	0	0	647

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
FOR TAX YEAR: 2016
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,999,127,118	3,429,239,107	0	97,774-	97,774-	3,429,141,333
AG EXCLUSION	13,436,213	13,436,213	0	0	0	13,436,213
IMPROVEMENTS	569,888,011	569,888,011	1,629,829	2,065,996-	436,167-	569,451,844
APPRAISED VALUE	3,999,127,118	3,999,127,118	1,629,829	2,163,770-	533,941-	3,998,593,177
EXEMPTIONS	968,850,710	968,850,710	49,000	4,549,266	4,598,266	973,448,976
TAXABLE VALUE	3,016,840,195	3,016,840,195	1,580,829	6,713,036-	5,132,207-	3,011,707,988
LEVY	167,621.71	167,621.71	8,585.31	35,195.42-	26,610.11-	141,011.60
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,913	9,913	1	40	40	9,953
OVER 65	2,721	2,721	0	22	22	2,743
DISABLED	0	0	1	2	2	2
VETERAN	242	242	0	3	3	245
TOTAL EXEMPT	642	642	0	0	0	642

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
FOR TAX YEAR: 2015
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,624,772,568	3,125,559,710	0	0	0	3,125,559,710
AG EXCLUSION	17,997,504	17,997,504	0	0	0	17,997,504
IMPROVEMENTS	499,212,858	499,212,858	982,659	315,676-	666,983	499,879,841
APPRAISED VALUE	3,624,772,568	3,624,772,568	982,659	315,676-	666,983	3,625,439,551
EXEMPTIONS	906,250,004	906,250,004	52,000	238,023-	186,023-	906,063,981
TAXABLE VALUE	2,700,525,060	2,700,525,060	930,659	77,653-	853,006	2,701,378,066
LEVY	43,241.57	43,241.57	5,259.65	1,417.07	6,676.72	49,918.29
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,425	9,425	1	3-	3-	9,422
OVER 65	2,517	2,517	0	2-	2-	2,515
DISABLED	170	170	1	0	0	170
VETERAN	231	231	0	0	0	231
TOTAL EXEMPT	632	632	0	0	0	632

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
FOR TAX YEAR: 2014
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,220,611,338	2,761,917,896	0	0	0	2,761,917,896
AG EXCLUSION	22,656,763	22,656,763	0	0	0	22,656,763
IMPROVEMENTS	458,693,442	458,693,442	983,763	97,303-	886,460	459,579,902
APPRAISED VALUE	3,220,611,338	3,220,611,338	983,763	97,303-	886,460	3,221,497,798
EXEMPTIONS	739,118,459	739,118,459	45,000	66,894-	21,894-	739,096,565
TAXABLE VALUE	2,458,836,116	2,458,836,116	938,763	30,409-	908,354	2,459,744,470
LEVY	35,109.90	35,109.90	5,551.84	1,749.57	7,301.41	42,411.31
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,648	9,648	1	1-	1-	9,647
OVER 65	2,524	2,524	0	0	0	2,524
DISABLED	176	176	1	0	0	176
VETERAN	220	220	0	0	0	220
TOTAL EXEMPT	624	624	0	0	0	624

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
INCLUDES AG ROLLBACK
FOR TAX YEAR: 2013
JURISDICTION: 0337 FRIENDWD CITY

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,137,530,828	3,137,530,828	0	0	0	3,137,530,828
AG EXCLUSION	23,290,819	23,290,819	0	0	0	23,290,819
IMPROVEMENTS	0	0	1,048,652	66,605-	982,047	982,047
APPRAISED VALUE	3,137,530,828	3,137,530,828	1,048,652	66,605-	982,047	3,138,512,875
EXEMPTIONS	704,624,861	704,624,861	45,000	47,671-	2,671-	704,622,190
TAXABLE VALUE	2,409,615,148	2,409,615,148	1,003,652	18,934-	984,718	2,410,599,866
LEVY	26,342.64	26,342.64	5,935.60	1,890.17	7,825.77	34,168.41
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,611	9,611	1	1-	1-	9,610
OVER 65	2,398	2,398	0	0	0	2,398
DISABLED	183	183	1	0	0	183
VETERAN	215	215	0	0	0	215
TOTAL EXEMPT	618	618	0	0	0	618

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
FOR TAX YEAR: 2012
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,010,746,098	3,010,746,098	0	0	0	3,010,746,098
AG EXCLUSION	24,253,634	24,253,634	0	0	0	24,253,634
IMPROVEMENTS	0	0	968,684	1,000-	967,684	967,684
APPRAISED VALUE	3,010,746,098	3,010,746,098	968,684	1,000-	967,684	3,011,713,782
EXEMPTIONS	688,493,465	688,493,465	0	0	0	688,493,465
TAXABLE VALUE	2,297,998,999	2,297,998,999	968,684	1,000-	967,684	2,298,966,683
LEVY	21,447.65	21,447.65	5,783.04	2,109.75	7,892.79	29,340.44
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,520	9,520	0	0	0	9,520
OVER 65	2,294	2,294	0	0	0	2,294
DISABLED	184	184	0	0	0	184
VETERAN	202	202	0	0	0	202
TOTAL EXEMPT	611	611	0	0	0	611

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
FOR TAX YEAR: 2011
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,027,077,728	3,027,077,728	0	0	0	3,027,077,728
AG EXCLUSION	25,181,497	25,181,497	0	0	0	25,181,497
IMPROVEMENTS	0	0	0	1,000-	1,000-	1,000
APPRAISED VALUE	3,027,077,728	3,027,077,728	0	1,000-	1,000-	3,027,076,728
EXEMPTIONS	693,987,772	693,987,772	0	0	0	693,987,772
TAXABLE VALUE	2,307,908,459	2,307,908,459	0	1,000-	1,000-	2,307,907,459
LEVY	15,195.88	15,195.88	.00	6.49-	6.49-	15,189.39
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,686	9,686	0	0	0	9,686
OVER 65	2,190	2,190	0	0	0	2,190
DISABLED	191	191	0	0	0	191
VETERAN	183	183	0	0	0	183
TOTAL EXEMPT	606	606	0	0	0	606

TAX COLLECTION SYSTEM
SUPPLEMENTAL / ADJUSTMENT CONTROL TOTALS
FOR TAX YEAR: 2010
JURISDICTION: 0337 FRIENDWD CITY

INCLUDES AG ROLLBACK

	CERTIFIED ROLL	ROLL AS OF 08/01/2017	SUPPLEMENTALS THIS PERIOD	ADJUSTMENTS THIS PERIOD	NET CHANGE THIS PERIOD	ROLL AS OF 05/31/2018
LAND VALUE	3,002,750,969	3,002,750,969	0	0	0	3,002,750,969
AG EXCLUSION	26,708,568	26,708,568	0	0	0	26,708,568
IMPROVEMENTS	0	0	0	1,000-	1,000-	1,000
APPRAISED VALUE	3,002,750,969	3,002,750,969	0	1,000-	1,000-	3,002,749,969
EXEMPTIONS	694,556,367	694,556,367	0	0	0	694,556,367
TAXABLE VALUE	2,281,486,034	2,281,486,034	0	1,000-	1,000-	2,281,485,034
LEVY	12,873.11	12,873.11	.00	6.44-	6.44-	12,866.67
UNCOLLECTIBLE	.00	.00	.00	.00	.00	.00
RECEIVABLE					.00	
EXEMPTION COUNTS:						
HOMESTEADS	9,651	9,651	0	0	0	9,651
OVER 65	2,079	2,079	0	0	0	2,079
DISABLED	176	176	0	0	0	176
VETERAN	180	180	0	0	0	180
TOTAL EXEMPT	598	598	0	0	0	598

Summary of Jurisdiction Remittances Processed

Report run on: June 4, 2018 2:20 PM

For Remitted Deposit Dates 05/01/2018 thru 05/31/2018 as of 06/04/2018

Version 1.50

Tax Unit		M & O Total	I & S Total	TIF Levy	TIF Interest	Fee Total	Total
337 FRIENDWD CITY							
ACH 40009	Print Date:05/08/2018						
	Current	3,005.84	660.47	0.00	0.00	0.00	3,666.31
Last Deposit Date	05/01/2018	$3,005.84	$660.47	$0.00	$0.00	$0.00	$3,666.31
ACH 40042	Print Date:05/08/2018						
	Current	3,909.55	859.03	0.00	0.00	0.00	4,768.58
	Delq	23.37	4.25	0.00	0.00	0.00	27.62
Last Deposit Date	05/02/2018	$3,932.92	$863.28	$0.00	$0.00	$0.00	$4,796.20
ACH 40079	Print Date:05/09/2018						
	Current	4,162.02	914.52	0.00	0.00	0.00	5,076.54
	Delq	172.55	31.32	0.00	0.00	0.00	203.87
Last Deposit Date	05/03/2018	$4,334.57	$945.84	$0.00	$0.00	$0.00	$5,280.41
ACH 40111	Print Date:05/09/2018						
	Current	3,414.10	750.18	0.00	0.00	0.00	4,164.28
	Delq	1,676.10	289.08	0.00	0.00	0.00	1,965.18
Last Deposit Date	05/04/2018	$5,090.20	$1,039.26	$0.00	$0.00	$0.00	$6,129.46
ACH 40146	Print Date:05/10/2018						
	Current	2,900.40	637.31	0.00	0.00	0.00	3,537.71
Last Deposit Date	05/07/2018	$2,900.40	$637.31	$0.00	$0.00	$0.00	$3,537.71
ACH 40181	Print Date:05/10/2018						
	Current	12,771.74	2,806.33	0.00	0.00	0.00	15,578.07
	Delq	85.88	14.18	0.00	0.00	0.00	100.06
Last Deposit Date	05/08/2018	$12,857.62	$2,820.51	$0.00	$0.00	$0.00	$15,678.13
ACH 40218	Print Date:05/11/2018						
	Current	2,906.04	638.54	0.00	0.00	0.00	3,544.58
	Delq	66.59	7.68	0.00	0.00	0.00	74.27
Last Deposit Date	05/09/2018	$2,972.63	$646.22	$0.00	$0.00	$0.00	$3,618.85
ACH 40254	Print Date:05/14/2018						
	Current	4,129.25	907.31	0.00	0.00	0.00	5,036.56
	Delq	1,814.89	329.98	0.00	0.00	0.00	2,144.87
Last Deposit Date	05/10/2018	$5,944.14	$1,237.29	$0.00	$0.00	$0.00	$7,181.43
ACH 40289	Print Date:05/15/2018						
	Current	1,753.91	385.37	0.00	0.00	0.00	2,139.28
	Delq	30.32	5.52	0.00	0.00	0.00	35.84
Last Deposit Date	05/11/2018	$1,784.23	$390.89	$0.00	$0.00	$0.00	$2,175.12
ACH 16	Print Date:05/16/2018						
	Current	2,075.32	456.01	0.00	0.00	0.00	2,531.33
	Delq	143.97	21.58	0.00	0.00	0.00	165.55
Last Deposit Date	05/14/2018	$2,219.29	$477.59	$0.00	$0.00	$0.00	$2,696.88
ACH 40324	Print Date:05/17/2018						
	Current	2,020.98	444.07	0.00	0.00	0.00	2,465.05
Last Deposit Date	05/15/2018	$2,020.98	$444.07	$0.00	$0.00	$0.00	$2,465.05

Summary of Jurisdiction Remittances Processed

Report run on: June 4, 2018 2:20 PM

For Remitted Deposit Dates 05/01/2018 thru 05/31/2018 as of 06/04/2018

Version 1.50

Tax Unit		M & O Total	I & S Total	TIF Levy	TIF Interest	Fee Total	Total
337 FRIENDWD CITY							
ACH 40361	Print Date:05/18/2018						
	Current	2,375.03	521.88	0.00	0.00	0.00	2,896.91
	Delq	498.90	90.71	0.00	0.00	0.00	589.61
Last Deposit Date	05/16/2018	$2,873.93	$612.59	$0.00	$0.00	$0.00	$3,486.52
ACH 40396	Print Date:05/21/2018						
	Current	7,951.37	1,747.16	0.00	0.00	0.00	9,698.53
	Delq	111.95	16.69	0.00	0.00	0.00	128.64
Last Deposit Date	05/17/2018	$8,063.32	$1,763.85	$0.00	$0.00	$0.00	$9,827.17
ACH 40432	Print Date:05/22/2018						
	Current	2,963.58	651.18	0.00	0.00	0.00	3,614.76
Last Deposit Date	05/18/2018	$2,963.58	$651.18	$0.00	$0.00	$0.00	$3,614.76
ACH 40467	Print Date:05/23/2018						
	Current	2,199.92	483.40	0.00	0.00	0.00	2,683.32
	Delq	(29.44)	(5.35)	0.00	0.00	0.00	(34.79)
Last Deposit Date	05/21/2018	$2,170.48	$478.05	$0.00	$0.00	$0.00	$2,648.53
ACH 40507	Print Date:05/25/2018						
	Current	3,319.14	729.29	0.00	0.00	0.00	4,048.43
	Delq	154.85	28.15	0.00	0.00	0.00	183.00
Last Deposit Date	05/22/2018	$3,473.99	$757.44	$0.00	$0.00	$0.00	$4,231.43
ACH 40545	Print Date:05/25/2018						
	Current	8,155.66	1,792.00	0.00	0.00	0.00	9,947.66
	Delq	(378.02)	(68.73)	0.00	0.00	0.00	(446.75)
Last Deposit Date	05/23/2018	$7,777.64	$1,723.27	$0.00	$0.00	$0.00	$9,500.91
ACH 40662	Print Date:06/01/2018						
	Current	4,747.57	1,043.22	0.00	0.00	0.00	5,790.79
	Delq	1,269.14	206.61	0.00	0.00	0.00	1,475.75
Last Deposit Date	05/30/2018	$6,016.71	$1,249.83	$0.00	$0.00	$0.00	$7,266.54
ACH 40700	Print Date:06/04/2018						
	Current	33,427.88	7,345.07	0.00	0.00	0.00	40,772.95
Last Deposit Date	05/31/2018	$33,427.88	$7,345.07	$0.00	$0.00	$0.00	$40,772.95
	Total:	**$113,830.35**	**$24,744.01**	**$0.00**	**$0.00**	**$0.00**	**$138,574.36**