

**CODE OF ORDINANCES**  
**CITY OF**  
**WOODVILLE, TEXAS**

---

Published by Order of the City Council

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**M**

MUNICIPAL CODE CORPORATION

**C**

Tallahassee, Florida

2006

OFFICIALS

of the

CITY OF WOODVILLE, TEXAS

AT THE TIME OF THIS RECODIFICATION

---

Jimmie R. Cooley

*Mayor*

---

John Wilson

Donald Coleman

Tony Castillo

Byron Stowe

Russ Nalley

*City Council*

---

Charles R. Comte

*City Administrator*

---

Ernest Gassiott

*City Attorney*

---

Terri Bible

*City Secretary*

CURRENT OFFICIALS

of the

CITY OF

WOODVILLE, TEXAS

---

Ben R. Bythewood, III

*Mayor*

---

Byron L. Stowe, Mayor Pro Tem

Paula Jones

Joyce Wilson

Caleb Spurlock

Russ Nalley

*City Council*

---

Mandy K. Risinger

*City Administrator*

---

Lou Ann Cloy

*City Attorney*

---

Terri Bible

*City Secretary*

## PREFACE

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

Source materials used in the preparation of the Code were the 1995 Code, as supplemented through February 14, 2000, and ordinances subsequently adopted by the city council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1995 Code and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been provided catchlines to facilitate usage. Notes which tie related sections of the Code together and 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:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

## *Index*

The index has 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 index itself 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 Daniel Walker, Supervising Legal Editor, and Yolanda Vickers, Technical 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 the city staff 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 Woodville, Texas. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the City of Woodville, Texas.

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ORDINANCE NO. 20060612

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF WOODVILLE, 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:

Section 1. The Code entitled "Code of Ordinances, City of Woodville, Texas," published by Municipal Code Corporation, consisting of chapters 1 through 74, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before March 13, 2006, 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 of not more than \$2,000.00 for violation of a provision governing fire safety, zoning, or public health and sanitation, including the dumping of refuse, or not greater than \$500.00 for any other violation. 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 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 March 13, 2006, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective June 12, 2006.

Passed and adopted by the City Council this 12 day of June, 2006.

Tony Castillo, Mayor

ATTEST:

Terri Bible, City Secretary

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## SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the code's historical evolution.

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
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20110613-5	6-13-2011	Include	4
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## CODE OF ORDINANCES

### Chapter 1

#### GENERAL PROVISIONS

- Sec. 1-1. How Code designated and cited.
- Sec. 1-2. Definitions and rules of construction.
- Sec. 1-3. Section catchlines and other headings.
- Sec. 1-4. History notes.
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- Sec. 1-14. Violations of Code or ordinance; culpable mental state.

#### **Sec. 1-1. How Code designated and cited.**

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Woodville, Texas" and may be so cited. Such Code may also be cited as the "Woodville City Code."

(Code 1966, § 1-1; Code 1995, § 1-1)

**State Law References:** Power to codify ordinances, V.T.C.A., Local Government Code § 53.001 et seq.

#### **Sec. 1-2. Definitions and rules of construction.**

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

*Alderman.* The term "alderman" shall be construed to mean a member of the council of the City of Woodville and shall include the term "councilman."

*City.* The term "the city" or "this city" shall mean the City of Woodville, in the County of Tyler and State of Texas.

*City secretary, mayor or other city officers or agencies.* The term "city secretary," "mayor" or other officers, employees, departments, boards, commissions or agencies shall be construed to mean the city secretary, mayor or such other municipal officers, employees, departments, boards, commissions or agencies, respectively, of the City of Woodville, Texas.

*Code.* Whenever the term "Code" or "this Code" is referred to without further qualification, it shall mean

the Code of Ordinances, City of Woodville, Texas, as designated in section 1-1.

*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 as 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.

**State Law References:** Computation of time, V.T.C.A., Government Code § 311.014.

*Council, city council or the council.* The term "council" or "city council" or "the council" shall mean the city council of the City of Woodville, Texas.

*County.* The term "the county" or "this county" shall mean the County of Tyler.

*Fees.* Any rate, fee, charge or other dollar amount in this Code shall be in effect only until the city council from time to time amends such amount and keeps the current amounts on file in the city records.

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

**State Law References:** Gender, V.T.C.A., Government Code § 311.012(c).

*Highway.* The term "highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**State Law References:** "Highway" defined, Vernon's Ann. Civ. St. art. 6701d, § 13(a).

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

*Month.* The word "month" shall mean a calendar month.

**State Law References:** Similar provisions, V.T.C.A., Government Code § 312.011(7).

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

**State Law References:** Similar provisions, V.T.C.A., Government Code § 311.012(b).

*Oath.* The term "oath" shall be construed to include an affirmation, and the terms "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

**State Law References:** "Oath" defined, V.T.C.A., Government Code § 311.005(1).

*Or, and.* The word "or" may be read "and," and "and" may be read "or," if the sense requires it.

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

*Person.* The term "person" includes an individual, firm, company, corporation, organization,

government or governmental subdivision or agency, business trust, estate, trust, trustee, partnership, association and any other public or private legal entity.

**State Law References:** "Person" defined, V.T.C.A., Government Code § 311.005(2).

*Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.

*Roadway.* The term "roadway" shall mean that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways the term "roadway" as used in this Code shall refer to any such roadway separately but not to all such roadways collectively.

*Shall, may.* The word "shall" is mandatory; the word "may" is permissive.

*Sidewalk.* The term "sidewalk" shall mean that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

*Signature or subscription.* The term "signature" or "subscription" shall include any symbol executed or adopted by a person with present intention to authenticate a writing.

**State Law References:** "Signed" defined, V.T.C.A., Government Code § 311.005(6).

*State.* The term "the state" or "this state" shall be construed to mean the State of Texas.

*Street.* The term "street" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

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

**State Law References:** Similar provisions, V.T.C.A., Government Code § 311.012(a).

*Vernon's Ann. C.C.P.* The term "Vernon's Ann. C.C.P." means Vernon's Annotated Code of Criminal Procedure, as amended from time to time.

*Vernon's Ann. Civ. St.* The term "Vernon's Ann. Civ. St." means Vernon's Annotated Civil Statutes, as amended from time to time.

*V.T.C.A.* The term "V.T.C.A." means Vernon's Texas Codes Annotated, as amended from time to time.

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

**State Law References:** "Written" defined, V.T.C.A., Government Code § 311.005(11).

*Year.* The term "year" shall mean 12 consecutive months.  
(Code 1966, § 1-2; Code 1995, § 1-2)

**State Law References:** Code Construction Act, V.T.C.A., Government Code § 311.001 et seq.; "year" defined, V.T.C.A., Government Code § 311.005(12); construction of Local Government Code, V.T.C.A., Local Government Code § 1.002; application of Penal Code definitions, V.T.C.A., Penal Code § 1.03.

### **Sec. 1-3. Section catchlines and other headings.**

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. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.  
(Code 1966, § 1-3; Code 1995, § 1-3)

**State Law References:** Headings in state codes, V.T.C.A., Government Code § 311.024.

#### **Sec. 1-4. 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 sections.  
(Code 1995, § 1-4)

#### **Sec. 1-5. Editor's notes and references.**

The editor's notes, cross references and state law references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.  
(Code 1995, § 1-5)f

#### **Sec. 1-6. 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 or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity 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 or invalid phrase, clause, sentence, paragraph or section.  
(Code 1966, § 1-7; Code 1995, § 1-6)

**State Law References:** Severability of statutes, V.T.C.A., Government Code §§ 311.032, 312.013.

#### **Sec. 1-7. Amendments or additions to Code.**

(a) All ordinances passed subsequent to 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, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the council to make such additions and amendments a part of this Code, shall be deemed to be incorporated in this Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Woodville, Texas, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, City of Woodville, Texas, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section reads as follows: . . . ." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.  
(Code 1966, § 1-4; Code 1995, § 1-7)

### **Sec. 1-8. 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 council. A supplement to the Code shall include all substantive parts of permanent and general ordinances passed by the council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of 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 in the Code).
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of the 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 1995, § 1-8)

### **Sec. 1-9. Fees and charges.**

Any provision of this Code that establishes a rate, fee, charge or other dollar amount is subject to change from time to time by the city council without the making of a change of the wording of this Code.  
(Code 1995, § 1-9)

### **Sec. 1-10. General penalty; continuing violations; disposition of fines.**

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 such provision of this Code or any such ordinance shall be punished by a fine of not more than \$500.00. However, a fine for the violation of a provision of this Code or an ordinance that governs fire safety, zoning or public health and sanitation, including dumping of refuse, may not exceed \$2,000.00. 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 any violation of this Code or of any ordinance shall continue shall constitute a separate offense. All fines collected shall be paid into the general fund of the city and an accurate record thereof shall be kept and maintained by the clerk of the municipal court.  
(Code 1966, § 1-5; Code 1995, § 1-10)

**State Law References:** Adoption of penalties in ordinance codification, V.T.C.A., Local Government Code § 53.001(a); amount of fine or penalty imposed by the city, V.T.C.A., Local Government Code § 54.001; abatement of health nuisances, V.T.C.A., Health and Safety Code § 341.011 et seq.; jurisdiction of municipal court, V.T.C.A., Government Code § 29.003.

### **Sec. 1-11. Confinement of city prisoners in county jail.**

(a) When any defendant in a case before the municipal court of the city is convicted and submitted to custody, he shall be committed to the custody of the chief of police to be held by the chief in the county jail.

(b) The county shall be paid the sum of \$5.00 per day for each and every day a city prisoner is in and occupying a cell in the county jail, in accordance with the agreement dated May 14, 1962, by and between the city and the county.

(c) While in the custody of the chief of police and while committed to confinement in the county jail, prisoners may be required to perform such labor as the city council may from time to time provide.  
(Code 1966, § 1-6; Code 1995, § 1-11)

**State Law References:** Commitment of prisoners, Vernon's Ann. C.C.P. art. 45.05.

### **Sec. 1-12. Alternatives provided; payment of fine in installments.**

When the defendant has been convicted of any offense over which the municipal court has jurisdiction, a judgment that the defendant pay a fine may also direct that he pay the fine within a limited time or installments on specified dates and that in default of payments as therein stipulated that he be imprisoned until the fine is satisfied in full; but unless such direction is given in the judgment, the fine shall be payable forthwith. Any judgment providing for such an installment payment shall be in writing, with a copy being given to the defendant and a copy being signed by the defendant acknowledging his receipt of the same. It is expressly provided, however, that if the defendant has duly posted an appearance bond, appeal bond or cash escrow

deposit, the convicted party shall remain free pending the further disposition of his case.  
(Code 1966, § 1-6.1; Code 1995, § 1-12)

**Sec. 1-13. Miscellaneous ordinances and actions not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any of the following:

- (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, relocating, 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 regulating subdivisions or dedicating or accepting any plat or subdivision in the city.
- (12) Ordinances or resolutions prescribing traffic regulations for specific streets, such as ordinances or resolutions designating one-way streets, no parking areas, stop intersections, intersections where traffic is to be controlled by signals, etc.
- (13) Any ordinance relating to specific railroad companies or to specific railroad grade crossings.
- (14) Any emergency management plan adopted or approved by the council.
- (15) Any temporary or special ordinance.
- (16) Any ordinance consistent with this Code establishing rates, fees, charges, etc.

(17) Any ordinance concerning health benefits for city officers and employees.

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

(Code 1995, § 1-13; Ord. of 2-1-1966, § 3; Ord. No. 20000911, § 2, 9-11-2000)

**Sec. 1-14 . Violations of Code or ordinance; culpable mental state.**

(a) In any prosecution filed under a provision of this Code or any ordinance of the city which expressly requires proof that the actor engaged in conduct intentionally, knowingly, recklessly, or with criminal negligence, then a person does not commit an offense unless he is shown to have engaged in such conduct as the definition of the offense requires.

(b) Whenever in this Code or in any ordinance of the city an act or a failure to act is prohibited, or is made or declared to be unlawful, or an offense, or a misdemeanor, and such provision does not expressly require proof of a culpable mental state, proof of a culpable mental state is not required for conviction of such offense, it being the intent of the city council to dispense with the requirement of any culpable mental state in prosecutions filed under such provisions of this Code and other ordinances of the city; provided, however, that if such offense is punishable by a fine exceeding the amount authorized by V.T.C.A., Penal Code §12.23, a person does not commit such offense unless he is shown to have recklessly engaged in such conduct as the definition of the offense requires.

(c) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.

## Chapter 2

### ADMINISTRATION\*

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\* **State Law References:** Provisions and powers of Type A general law municipalities, V.T.C.A., Local Government Code § 51.011 -- 51.018; Type A municipality may adopt necessary ordinances not inconsistent with state law, V.T.C.A., Local Government Code § 51.011; extraterritorial jurisdiction of municipalities, V.T.C.A., Local Government Code § 42.001 et seq.; municipal finances, V.T.C.A., Local Government Code ch. 101 et seq.; compensation of officers, V.T.C.A., Local Government Code § 141.001; open meetings, V.T.C.A., Government Code ch. 551; open records, V.T.C.A., Government Code ch. 552.

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#### Article II. City Council

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Sec. 2-236. Definitions.  
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Sec. 2-238. Municipal records declared public property.  
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Sec. 2-241. Records management plan; development, approval, authority.  
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Sec. 2-243. Duties, responsibilities of department heads.  
Sec. 2-244. Records control schedules; development, approval, filing with state.  
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Secs. 2-247--2-275. Reserved.

#### **Article VI. Departments**

Sec. 2-276. City department heads enumerated.  
Sec. 2-277. Chief of police.

### **ARTICLE I.**

#### **IN GENERAL**

#### **Sec. 2-1. City to be a type A general law municipality.**

The city hereby adopts the provisions of state law relating to cities and towns as the law governing the city in lieu of any existing charter of the city, and the city shall be known as the City of Woodville.

(Code 1966, § 2-1; Code 1995, § 2-1)

**State Law References:** Authority to change to type A general law municipality, V.T.C.A., Local Government Code § 6.011.

**Secs. 2-2--2-30. Reserved.**

### **ARTICLE II.**

#### **CITY COUNCIL\***

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\* **State Law References:** Governing body, V.T.C.A., Local Government Code § 22.031 et seq.

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**Sec. 2-31. Constitutes governing body; composition; term.**

The governing body of the city is and shall continue to be a city council consisting of a mayor and five aldermen elected from the city at large under the provisions of V.T.C.A., Local Government Code § 22.031(b), with each alderman and the mayor being divided into two groups, with each group holding office for a two-year term, which overlaps the term of the other group, in accordance with V.T.C.A., Local Government Code §§ 22.031(b), 22.034(c) and 22.035.  
(Code 1966, § 2-21; Code 1995, § 2-31)

**Sec. 2-32. Special and standing committees.**

The special and standing committees of the council shall be such as are or may be from time to time provided for by resolution of the council, and their duties shall be as from time to time prescribed by the council.  
(Code 1966, § 2-22; Code 1995, § 2-32)

**Sec. 2-33. Meetings.**

The city council shall meet at 6:00 p.m. on the second Monday of each month in regular session, at the city hall. At a special session of the council, no business shall be transacted except that for which the special session was called.  
(Code 1966, § 2-23; ; Code 1995, § 2-33; Ord. No. 20011008, 10-8-2001)

**State Law References:** Duty of council to hold regular meetings and procedure for calling special meetings, V.T.C.A., Local Government Code § 22.038; quorum, V.T.C.A., Local Government Code § 22.039.

**Sec. 2-34. Mayor pro tempore.**

(a) At each new council's first meeting or as soon as practicable, the council shall elect one alderman to serve as mayor pro tempore for a term of one year.

(b) If the mayor fails, is unable or refuses to act, the mayor pro tempore shall perform the mayor's duties and is entitled to receive the fees and compensation prescribed for the mayor.

(c) In case of the death, resignation or removal of the mayor, the mayor pro tempore shall discharge his duties from the time of such death, resignation or removal, until a successor is elected and qualified.  
(Code 1966, § 2-5; Code 1995, § 2-34)

**State Law References:** Similar provisions, V.T.C.A., Local Government Code § 22.037.

**Sec. 2-35. Approval of minutes.**

The minutes of the previous regular meeting of the council shall be read and approved at the next regular meeting.  
(Code 1966, § 2-27; Code 1995, § 2-35)

**State Law References:** Rules of proceedings, V.T.C.A., Local Government Code § 22.038(c).

**Secs. 2-36--2-60. Reserved.**

**ARTICLE III.**

## OFFICERS AND EMPLOYEES\*

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\* **State Law References:** Municipal officers, V.T.C.A., Local Government Code § 22.071 et seq.

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### DIVISION 1.

#### GENERALLY

##### **Sec. 2-61. City officers designated; election and appointment.**

In addition to the mayor and aldermen, the officers of the city shall be a secretary, an attorney, an engineer, a city administrator, a health officer and such other officers as the council may from time to time establish. The mayor and aldermen shall be elected by the people. All other officers shall be appointed by the mayor by and with the consent of the city council.

(Code 1966, § 2-2; Code 1995, § 2-61)

**State Law References:** Designation of officers, V.T.C.A., Local Government Code § 22.071.

##### **Sec. 2-62. Oath of office.**

Every person elected by the electors of the city or appointed pursuant to section 2-61 to any city office shall, before entering upon the duties of such office, take and subscribe the official oath prescribed in the constitution of this state, and the same shall be filed with the city secretary.

(Code 1966, § 2-3; Code 1995, § 2-62)

**State Constitution References:** Official oath, art. XVI, § 1.

**State Law References:** Oath for elected or appointed officer, V.T.C.A., Local Government Code § 22.005.

##### **Sec. 2-63. Bond.**

(a) The chief of police and all members of the police department, the city secretary, all officers and employees of the city whose duties involve the collection or handling of city funds, and all other officers and employees designated by the city council shall give bond, with a surety company authorized to do business in the state as surety, in an amount set by the council from time to time, which bond shall be approved by the city council. The premium on the bond shall be paid by the city.

(b) The bond required by this section shall be payable to the mayor and his successors in office and shall be conditioned that the officer or employee giving the bond will faithfully perform all the duties of his office that are or may be imposed upon him according to law and the ordinances of the city, and will comply with all the lawful orders of the city council, and account for all city funds coming into his hands.

(Code 1966, § 2-4; Code 1995, § 2-63)

**State Law References:** Authority of city to require official bonds, V.T.C.A., Local Government Code § 22.072(c).

##### **Secs. 2-64--2-85. Reserved.**

### DIVISION 2.

## **CITY ADMINISTRATOR**

### **Sec. 2-86. Office created; salary; authority.**

The office of city administrator is hereby created. The salary for such office shall be as determined annually by the city council and as stated in an employment contract with specific individuals hired to serve by the city as city administrator. The mayor shall supervise the conduct of the city administrator and shall cause any negligence, carelessness or other violation of duties to be prosecuted and punished. The city administrator shall serve at the will of council subject to any employment contract and shall hold office until his successor has been appointed and qualified.

(Code 1995, § 2-86(a); Ord. No. 20041108-1, § 1, 11-08-2004)

### **Sec. 2-87. Authority; duties.**

- (a) The city administrator shall be given the authority as follows:
- (1) To be in charge of all city operations and to ensure that those responsible for the hiring, training and discharge (when necessary) act properly and within the scope of their employment. If necessary, the city administrator may, on his own initiative, perform any of the acts herein delegated to department heads under his oversight. The city administrator shall not have authority to countermand any such acts of the following city officers; the judge of the municipal court, the city secretary and the city attorney.
  - (2) To hire and employ consultants, contractors and professionals where necessary and where provided for within the current budget of the city.
  - (3) To assist the mayor in the preparation of a budget for the mayor to present to the city council annually, such budget to be presented to the city council in September.
  - (4) To expend funds of the city so long as the funds are provided in the current budget of the city and to not exceed expenditures as budgeted for.
  - (5) To report monthly to the city council and the mayor on the operation of the city by providing a monthly financial report comparing actual expenditures to the budget of the city.
  - (6) To prepare agendas of all meetings, both regular and called.
  - (7) To provide detailed information about each agenda item along with recommendations for actions, ordinances, etc.

(b) The city administrator shall act, in addition to the above duties, as a public relations servant to the citizens of the city.

(Code 1995, § 2-86(b), (c); Ord. No. 20041108-1, § 1, 11-08-2004; Ord. No. 20060313, § 1, 3-13-2006; Ord. No. 20080811-2, § 1, 8-11-2008)

### **Sec. 2-88. Monthly report to city council and mayor.**

The city administrator shall make a monthly report to the city council and mayor concerning the operations of the city, including but not limited to a report concerning the sewer systems, street paving, park maintenance, solid waste collection and disposal, and maintenance of city equipment and plant operations. (Code 1995, § 2-86(d))

**Sec. 2-89. Appointment to other offices.**

The city administrator may be appointed to other offices such as city secretary. (Code 1995, § 2-86(e))

**Sec. 2-90. Termination by city council.**

If the performance of the city administrator does not satisfy the city council, the city council does hereby reserve the right to terminate employment of any individual as city administrator. (Code 1995, § 2-86(f))

**Secs. 2-91--2-110. Reserved.**

**DIVISION 3.**

**CITY SECRETARY\***

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\* **State Law References:** City secretary designated as officer of city, V.T.C.A., Local Government Code § 22.071(a); powers and duties of city secretary, V.T.C.A., Local Government Code § 22.073; certification of secretaries, V.T.C.A., Local Government Code § 22.074.

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**Sec. 2-111. Qualifications.**

The city secretary shall be at least 18 years of age, of good character and shall possess such educational qualifications as may be necessary, in the judgment of the city council, to properly discharge his duties. (Code 1966, § 2-38; Code 1995, § 2-111)

**State Law References:** Age of majority, V.T.C.A., Civil Practice and Remedies Code ch. 129.

**Sec. 2-112. Appointment; term of office.**

The city secretary will be appointed by the mayor with the approval of the city council. The city administrator shall supervise the conduct of the city secretary and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The city secretary shall serve at the will of city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified.

(Code 1966, § 2-39; Code 1995, § 2-112; Ord. No. 20041108-1, § 2 (2-112), 11-08-2004)

**Sec. 2-113. Office location.**

The city secretary shall have and keep his office in the city hall.

(Code 1966, § 2-40; Code 1995, § 2-113)

**Sec. 2-114. General duties.**

The city secretary shall do and perform all duties required of him by this Code and any other law, ordinance, resolution or order of the city council.

(Code 1966, § 2-41; Code 1995, § 2-114)

**Sec. 2-115. Duties as city accountant.**

The city secretary shall be the general accountant for the city and be responsible for the methods of bookkeeping used by the city and any of its departments.

(Code 1966, § 2-42; Code 1995, § 2-115)

**State Law References:** City secretary as general accountant, V.T.C.A., Local Government Code § 22.073(e).

**Sec. 2-116. Duty with respect to council meetings, minutes.**

It shall be the duty of the city secretary to attend every meeting of the council and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose and to carry out the duties required by V.T.C.A., Local Government Code § 22.073.

(Code 1966, §§ 2-26, 2-43; Code 1995, § 2-116)

**Sec. 2-117. Duties as office manager of the city office.**

It shall be the duty of the city secretary to be in charge of all city hall clerical employees and to hire, train and discharge when necessary, those employees.

(Ord. No. 20080811-2, § 2, 8-11-2008)

**Sec. 2-118. Duties as personnel/human resource director.**

The city secretary shall be in charge of all clerical matters relating to personnel, including, but not limited to, employment applications, payroll and withholding, insurance, vacation, sick leave and worker's compensation. The city secretary does not have the duty to hire, train or discharge any employee except those placed under her supervision in section 2-117 above.

(Ord. No. 20080811-2, § 2, 8-11-2008)

**Secs. 2-119--2-135. Reserved.**

**DIVISION 4.**

**CITY ATTORNEY\***

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\* **State Law References:** City attorney designated as officer of city, V.T.C.A., Local Government Code § 22.071(a).

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**Sec. 2-136. Qualifications; appointment.**

The city attorney shall be a duly licensed and practicing attorney and a member of the state bar of Texas. The city attorney will be appointed by the mayor with the approval of the city council. The mayor shall supervise the conduct of the city attorney and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The city attorney shall serve at the will of city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified.

(Code 1966, § 2-6; Code 1995, § 2-136; Ord. No. 20041108-1, § 3 (2-136), 11-08-2004)

**State Law References:** Eighty-eighth judicial district, V.T.C.A., Government Code § 24.190.

### **Sec. 2-137. Salary and fees.**

The city attorney shall receive such salary as may be fixed by the city council, which salary shall be in lieu of all fees. All fees earned by the city attorney and collected shall go into the general fund.

(Code 1966, § 2-7; Code 1995, § 2-137)

**State Law References:** Compensation and fees paid to city attorney, Vernon's Ann. C.C.P. art. 45.09.

### **Secs. 2-138--2-185. Reserved.**

## **DIVISION 5.**

### **RETIREMENT**

#### **Sec. 2-186. Definitions.**

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

*System* means the Texas Municipal Retirement System.

(Code 1995, § 2-186; Ord. of 9-12-1994(1), § 1)

#### **Sec. 2-187. Member contributions.**

All employees of the city who are members of the Texas Municipal Retirement System shall make deposits to the system at the rate of seven percent of their individual earnings.

(Code 1995, § 2-187; Ord. of 9-12-1994(1), § 1; Ord. No. 20060911-3, § 1, 9-11-2006)

**State Law References:** Member contributions, V.T.C.A., Government Code § 855.401.

#### **Sec. 2-188. Authorization of updated service credits.**

(a) On the terms and conditions set out in V.T.C.A., Government Code §§ 853.401--853.404, as amended, each member of the Texas Municipal Retirement 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 that term is defined in V.T.C.A., Government Code § 853.402(d)).

(b) On the terms and conditions set out in V.T.C.A., Government Code § 853.601, 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 participating municipality or municipalities by reason of previous service, and was a contributing member on January 1 of the calendar year preceding such allowance, shall be credited with updated service credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in V.T.C.A., Government Code § 853.601, both as to the initial grant under this section and all future grants under this section.

(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)).

(d) Each updated service credit allowed under this section shall replace any updated service credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(e) In accordance with the provisions of V.T.C.A., Government Code § 853.401(c), 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 January 1, 1995, on the full amount of such person's compensation as an employee of the city.

(Code 1995, § 2-188; Ord. of 9-12-1994(1), § 1)

#### **Sec. 2-189. Increase in retirement annuities.**

(a) On terms and conditions set out in V.T.C.A., Government Code § 854.203, the city hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the system to retired employees and to beneficiaries of deceased employees of the city under current service annuities and prior service annuities arising from service by such employees to the city. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by 70 percent of the percentage change in Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor from December of the year immediately preceding the effective date of the person's retirement to December 1993.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is payable as a prior service annuity, is an obligation of the city's account in the municipality accumulation fund, and is subject to reduction under V.T.C.A., Government Code § 855.308(f).

(e) If a computation under this section does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed under this section.

(Code 1995, § 2-189; Ord. of 9-12-1994(1), § 2)

#### **Sec. 2-190. Dates of allowances and increases.**

The initial allowance of updated service credit and increase in retirement annuities shall be effective on January 1, 1995, subject to approval by the board of trustees of the system. An allowance of updated service credits and an increase in retirement annuities shall be made on January 1 of each subsequent year until this division ceases to be in effect under V.T.C.A., Government Code § 853.404(e), provided that, as to such subsequent year, the actuary for the system has made the determination set forth in V.T.C.A., Government Code § 853.404(d).  
(Code 1995, § 2-190; Ord. of 9-12-1994(1), § 3)

**Secs. 2-191--2-210. Reserved.**

## **ARTICLE IV.**

### **FINANCE**

**Sec. 2-211. Annual audit; financial statement.**

The city shall have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit.

(Code 1966, § 2-9; Code 1995, § 2-211)

**State Law References:** Similar provisions, V.T.C.A., Local Government Code § 103.001.

**Sec. 2-212. Auditor; qualifications.**

If the city's records and accounts are not audited annually by a person prescribed by statute or by a person in the regular employ of the city, the city shall employ at its own expense a certified public accountant who is licensed in this state or a public accountant who holds a permit to practice from the state board of public accountancy to conduct the audit and to prepare the annual financial statement.

(Code 1966, § 2-9; Code 1995, § 2-212)

**State Law References:** Similar provisions, V.T.C.A., Local Government Code § 103.002.

**Sec. 2-213. Notice of claims against city for damages.**

(a) Before the city shall be liable for damages for the death of or personal injury to any person or for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under article I, section 17, Constitution of Texas, the person injured, if living, or his representatives, if dead, or the owner of the property damaged or destroyed shall give the mayor or city secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within six months after the same has been sustained, stating specifically in such written notice when, where and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six months immediately preceding the occurrence of the death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. The failure to so notify the mayor or city secretary within the time and manner specified in this section shall exonerate, excuse and exempt the city from any liability whatsoever. No act of any officer or employee of the city shall waive compliance, or stop the city from requiring compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the city council, made and passed before the expiration of

the six-month period provided for in this section, and evidenced by the minutes of the council.

(b) The notice requirements provided by subsection (a) do not apply if the city has actual notice that death has occurred, that the claimant has received some injury or that the claimant's property has been damaged. (Code 1966, § 2-10; Code 1995, § 2-213)

**State Law References:** Notice of claim against city, V.T.C.A., Civil Practice and Remedies Code § 101.101.

**Secs. 2-214--2-235. Reserved.**

## ARTICLE V.

### RECORDS MANAGEMENT\*

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\* **State Law References:** Preservation and management of local government records, V.T.C.A., Government Code § 441.151 et seq.; Local Government Records Act, V.T.C.A., Local Government Code § 201.001 et seq.; municipal records management, V.T.C.A., Local Government Code § 203.021 et seq.

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#### Sec. 2-236. Definitions.

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

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

*Director and librarian* means the executive and administrative officer of the Texas State Library and Archives Commission.

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

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

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

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

*Records management officer* means the person designated in section 2-240.

*Records management plan* means the plan developed under section 2-241.

*Retention period* means the minimum time that must pass after the creation, recording or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction. (Code 1995, § 2-236; Ord. No. 93-1, § 2, 8-9-1993)

**State Law References:** Definitions pertaining to local government records, V.T.C.A., Local Government Code § 201.003, and V.T.C.A., Government Code § 441.151.

### **Sec. 2-237. Records of city; declaration; procedures.**

(a) All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media or other information recording media, regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business are hereby declared to be the records of the city and shall be created, maintained and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner.

(b) Subsection (a) of this section shall not include:

- (1) Extra identical copies of documents created only for convenience of reference or research by officers or employees of the city.
- (2) Notes, journals, diaries and similar documents created by an officer or employee of the city for the officer's or employee's personal convenience.
- (3) Blank forms.
- (4) Stocks of publications.
- (5) Library and museum materials acquired solely for the purposes of reference or display.
- (6) Copies of documents in any media furnished to members of the public to which they are entitled under V.T.C.A., Government Code ch. 552, or other state law.

(Code 1995, § 2-237; Ord. No. 93-1, § 1, 8-9-1993)

**State Law References:** "Local government record" defined, V.T.C.A., Local Government Code § 201.003(8).

### **Sec. 2-238. Municipal records declared public property.**

All municipal records as defined in section 2-237 are hereby declared to be the property of the city. No municipal official or employee has, by virtue of his position, any personal or property right to such records even though he may have developed or compiled them. The unauthorized destruction, removal from files or use of such records is prohibited.

(Code 1995, § 2-238; Ord. No. 93-1, § 3, 8-9-1993)

**State Law References:** Declaration of local government records as public property, V.T.C.A., Local Government Code § 201.005.

### **Sec. 2-239. Policy.**

It is hereby declared to be the policy of the city to provide for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition consistent with the requirements of the Local Government Records Act (V.T.C.A., Local Government Code § 201.001 et seq.) and accepted records management practice.  
(Code 1995, § 2-239; Ord. No. 93-1, § 4, 8-9-1993)

**State Law References:** Purpose of Local Government Records Act, V.T.C.A., Local Government Code § 201.002.

### **Sec. 2-240. Designation of records management officer.**

The city secretary and the successive holders of the office shall serve as records management officer for the city. As provided by state law, each successive holder of the office shall file his name with the director and librarian within 30 days of the initial designation or of taking up the office, as applicable.  
(Code 1995, § 2-240; Ord. No. 93-1, § 5, 8-9-1993)

**State Law References:** Designation of records management officer, V.T.C.A., Local Government Code § 203.025.

### **Sec. 2-241. Records management plan; development, approval, authority.**

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

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

(c) State law relating to the duties, other responsibilities or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city.  
(Code 1995, § 2-241; Ord. No. 93-1, § 6, 8-9-1993)

**State Law References:** Custodians of records required to participate in records management program, V.T.C.A., Local Government Code § 203.022(b); records management program to be established, V.T.C.A., Local Government Code § 203.026.

### **Sec. 2-242. Duties of records management officer.**

In addition to other duties assigned in this article or by law, the records management officer shall:

- (1) Administer the records management program and provide assistance to department heads in its implementation.

- (2) Plan, formulate and prescribe records disposition policies, systems, standards and procedures.
- (3) In cooperation with department heads identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense.
- (4) Develop procedures to ensure the permanent preservation of the historically valuable records of the city.
- (5) Establish standards for filing and storage equipment and for recordkeeping supplies.
- (6) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city.
- (7) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations.
- (8) Disseminate information to the city council and department heads concerning state laws and administrative rules relating to local government records.
- (9) Ensure that the maintenance, preservation, microfilming, destruction or other disposition of the records of the city are carried out in accordance with the policies and procedures of the records management program and the requirements of state law.
- (10) Maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition.
- (11) Report annually to the city council on the implementation of the records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under subsection (10) of this section.
- (12) Bring to the attention of the city council noncompliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act (V.T.C.A., Local Government Code § 201.001 et seq.).

(Code 1995, § 2-242; Ord. No. 93-1, § 7, 8-9-1993)

**State Law References:** Duties of records management officer, V.T.C.A., Local Government Code § 203.023.

### **Sec. 2-243. Duties, responsibilities of department heads.**

In addition to other duties assigned in this article, department heads shall:

- (1) *Cooperation with records management officer.* Cooperate with the records management officer in carrying out the policies and procedures established in the city for the efficient and

economical management of records and in carrying out the requirements of this article.

- (2) *Accurate documentation.* Adequately document the transaction of government business and the services, programs and duties for which the department head and his staff are responsible.
- (3) *Maintenance and preservation of records.* Maintain the records in his care and carry out their preservation, microfilming, destruction or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this article.

(Code 1995, § 2-243; Ord. No. 93-1, § 8, 8-9-1993)

#### **Sec. 2-244. Records control schedules; development, approval, filing with state.**

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

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

(c) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the city council.

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

(Code 1995, § 2-244; Ord. No. 93-1, § 9, 8-9-1993)

**State Law References:** Records control schedules, V.T.C.A., Local Government Code § 203.041 et seq.; records retention schedules, V.T.C.A., Government Code § 441.158.

#### **Sec. 2-245. Implementation of records control schedules; destruction of records under schedule.**

(a) A records control schedule for a department that has been approved and adopted under section 2-244 shall be implemented by department heads according to the policies and procedures of the records management plan.

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

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

(Code 1995, § 2-245; Ord. No. 93-1, § 10, 8-9-1993)

**State Law References:** Retention periods, V.T.C.A., Local Government Code § 203.042.

**Sec. 2-246. Destruction of unscheduled records.**

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer has submitted to and received back from the director and librarian an approved destruction authorization request.

(Code 1995, § 2-246; Ord. No. 93-1, § 11, 8-9-1993)

**Secs. 2-247--2-275. Reserved.**

**ARTICLE VI.**

**DEPARTMENTS**

**Sec. 2-276. City department heads enumerated.**

The department heads of the city shall be the chief of police and the public works director, and such positions are hereby established. Pursuant to the authority of V.T.C.A., Local Government Code § 22.076, the office of city marshal is hereby abolished.

(Code 1995, § 2-276; Ord. No. 20060313, § 2, 3-13-2006)

**Sec. 2-277. Chief of police.**

(a) *Appointment; qualifications; conduct.* The chief of police shall be qualified for the duties of his office. He shall have like powers, rights and duties as are by law vested in city marshals and as may hereafter be authorized and prescribed by the city council. The chief of police shall be appointed by the city administrator with the approval of the city council, and shall report directly to the city administrator, who shall supervise his conduct and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The chief of police shall serve at the will of the city council and shall hold office until his successor, or an interim chief of police, has been appointed or qualified.

(b) *Duties.* The duties of the chief of police shall be as follows:

- (1) To be in charge of the police department, to hire, train and discharge, when necessary, all police department employees.
- (2) To prepare a budget for the mayor to present to the city council annually, such budget to be prepared and presented to the mayor by August 1.
- (3) To expend budgeted funds of the department as provided in the current budget, and not to exceed such funds unless preapproved by the city council.
- (4) To report monthly to the city council on the operation of the police department.

(c) *Purchase orders.* The chief of police and all police department employees shall each submit purchase orders to the city administrator or the designated representative of the city administrator for approval of any purchase the expense of which incurred by the police department is in excess of \$50.00.

(Code 1966, § 2-8; Code 1995, § 2-277; Ord. No. 20040907, 9-7-2004; Ord. No. 20041108-1, § 4 (2-277), 11-08-2004; Ord. No. 20060313, § 3, 3-13-2006)

**State Law References:** Marshal, V.T.C.A., Local Government Code §§ 22.076, 341.021.

## Chapter 3

### ZONING COMMISSION

#### Article I. In General

Sec. 3-1. Zoning commission.

Sec. 3-2. Name.

Secs. 3-3--3-30. Reserved.

Sec. 3-31. Membership.

Secs. 3-32--3-60. Reserved.

Sec. 3-61. Zoning regulations generally.

Secs. 3-62--3-90. Reserved.

Sec. 3-91. Districts.

Secs. 3-92--3-122. Reserved.

Sec. 3-123. Zoning commission recommendations, reports and notice.

Secs. 3-124--3-160. Reserved.

Sec. 3-161. Compliance with Open Meetings Law.

Secs. 3-162--3-190. Reserved.

Sec. 3-191. Enforcement; penalties; remedies.

Secs. 3-192--3-220. Reserved.

Sec. 3-221. Compliance with state and federal law.

Secs. 3-222--3-250. Reserved.

#### ARTICLE I.

#### IN GENERAL

##### Sec. 3-1. Zoning commission.

A commission (the "commission") is hereby created for the purpose of studying, and recommending to the city council, regulations creating zones within the city.

(Ord. No. 20090113-2, § 1, 1-13-2009)

##### Sec. 3-2. Name.

The name of the commission shall be the "City of Woodville Zoning Commission."

(Ord. No. 20090113-2, § 1, 1-13-2009)

##### Secs. 3-3--3-30. Reserved.

##### Sec. 3-31. Membership.

(a) The commission shall consist of seven commissioners appointed by the city council. Each councilman shall appoint one commissioner and the mayor shall appoint two commissioners. All commissioners shall reside within the limits of the City of Woodville.

(b) Commissioners shall serve at the will of the city council and shall be appointed for two-year terms. Commissioners may be removed with or without cause by a majority vote of the councilmen at a regularly scheduled council meeting.

(Ord. No. 20090113-2, § 1, 1-13-2009)

**Secs. 3-32--3-60. Reserved.**

**Sec. 3-61. Zoning regulations generally.**

(a) The commission shall make recommendations to the city council concerning its findings, but the city council shall be the sole authority as to whether such recommendations are adopted.

(b) The city may regulate (V.T.C.A., Local Government Code § 211.003):

(1) The height, number of stories and size of buildings and other structures;

(2) The percentage of a lot that may be occupied;

(3) The size of yards, courts, and other open spaces;

(4) Population density;

(5) The location and use of buildings, other structures, and land for businesses, industrial, residential, or other purposes; and

(6) The pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by V.T.C.A., Water Code § 13.002, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.

(7) In the case of designated places and areas of historical, cultural, or architectural importance and significance, the city may regulate the construction, reconstruction, alteration, or razing of buildings and other structures.

(c) Zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to (V.T.C.A., Local Government Code § 211.004):

(1) Lessen congestion in the streets;

(2) Secure safety from fire, panic and other dangers;

(3) Promote health and the general welfare;

(4) Provide adequate light and air;

(5) Prevent the overcrowding of land;

(6) Avoid undue concentration of population; or

(7) Facilitate the adequate provision of transportation, water, sewers, schools, parks and other public

requirements.

(d) The council may not adopt zoning regulations until the commission has held its own hearings and submitted a report to the council. The requested hearing for the council may be held in conjunction with a commission hearing. If a proposed change to a regulation or boundary is protested the proposed change must receive the affirmative vote of at least three-fourths of all of the members of the council.

(e) Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in an official newspaper or a newspaper of general circulation in the city.

(f) The council may not adopt the proposed change until after the 30th day after the date such notice is given.  
(Ord. No. 20090113-2, § 1, 1-13-2009)

**Secs. 3-62--3-90. Reserved.**

**Sec. 3-91. Districts.**

The city may divide itself into districts of a number, shape and size the council considers best for carrying out its zoning purposes (V.T.C.A., Local Government Code § 211.005).  
(Ord. No. 20090113-2, § 1, 1-13-2009)

**Secs. 3-92--3-122. Reserved.**

**Sec. 3-123. Zoning commission recommendations, reports and notice.**

(a) The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district.

(b) The commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the council.

(c) Before the tenth day before the hearing date, written notice of each public hearing before the commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed.  
(Ord. No. 20090113-2, § 1, 1-13-2009)

**State Law References:** V.T.C.A., Local Government Code § 211.007.

**Secs. 3-124--3-160. Reserved.**

**Sec. 3-161. Compliance with Open Meetings Law.**

The commission is subject to V.T.C.A., Government Code ch. 551 and shall comply with all applicable tenets therein.  
(Ord. No. 20090113-2, § 1, 1-13-2009)

**Secs. 3-162--3-190. Reserved.**

**Sec. 3-191. Enforcement; penalties; remedies.**

(a) A person commits an offense if the person violates any ordinance or regulation adopted pursuant to this chapter.

(b) Such offense is a misdemeanor, punishable by fine, imprisonment, or both as may be provided by the council.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this chapter or of an ordinance or regulation adopted under this chapter, the council may, in addition to other remedies, institute appropriate action to:

(1) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;

(2) Restrain, correct, or abate the violation;

(3) Prevent the occupancy of the building, structure, or land; or

(4) Prevent any illegal act, conduct, business, or use on or about the premises.

(Ord. No. 20090113-2, § 1, 1-13-2009)

**Secs. 3-192--3-220. Reserved.**

**Sec. 3-221. Compliance with state and federal law.**

All regulations or ordinances proposed by the commission and adopted by the council shall comply with all state and federal laws and regulations, including, but not limited to, V.T.C.A., Local Government Code § 211.001, V.T.C.A., Government Code ch. 551, and laws pertaining to due process, both substantive and procedural, equal protection, takings, fair housing, free speech, RLUIPA, and eminent domain.

(Ord. No. 20090113-2, § 1, 1-13-2009)

**Secs. 3-222--3-250. Reserved.**

**Chapters 4, 5**

**RESERVED**

## Chapter 5

### ALCOHOLIC BEVERAGES\*

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\* **Editors Note:** Ord. No. 20101115, §§ 2--7, adopted Nov. 15, 2010, enacted provisions which did not specify manner of inclusion. At the direction of the city, said provisions have been codified herein as Ch. 5, Art. I.

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#### Article I. Alcoholic Beverage Permit and License

**Sec. 5-1. Permit required and annual permit fee established.**

**Sec. 5-2. Processing procedures established.**

**Sec. 5-3. Annual processing fee established.**

**Sec. 5-4. Savings/repealing clause.**

**Sec. 5-5. Prohibition against sales of alcoholic beverages in certain locations.**

**Sec. 5-6. Measurement of distance.**

### ARTICLE I.

#### ALCOHOLIC BEVERAGE PERMIT AND LICENSE

##### **Sec. 5-1. Permit required and annual permit fee established.**

It shall be unlawful for any person to import, transport, store for purposes of sale, distribute or sell any alcoholic beverage within the city without having first paid an annual permit fee to the city equal to one-half of the State of Texas fee required by the TABC of every person that may be issued any permit or license or renew such permit or license by the state for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any alcoholic beverage. Except as otherwise set forth herein, the permit fee shall be paid to the city secretary upon original application and then annually for permit renewal. The city secretary shall issue a receipt for the permit fee and keep a record of same in the city secretary's office. All receipts issued for the payment of permit fees under the terms of this section shall terminate at midnight on the day before the anniversary date of their issuance, and no receipt shall be issued covering a longer term than one year. All permit fees are nonrefundable.

(Ord. No. 20101115, § 2, 11-15-2010)

##### **Sec. 5-2. Processing procedures established.**

Before the city secretary shall sign any application for a permit or license under the ABC, or any annual renewal, such application shall be submitted to the appropriate city departments, as determined by the city administrator, to ensure that the application complies with all city ordinances and regulations and are for establishments located in a wet area.

(Ord. No. 20101115, § 3, 11-15-2010)

##### **Sec. 5-3. Annual processing fee established.**

An annual processing fee in the amount of \$250.00 shall be charged by the city secretary for accepting any application or renewal. The city secretary shall issue a receipt for the processing fee and keep a record of

the same in the city secretary's office. All receipts issued for payment of processing fees under the terms of this section shall terminate at midnight on the day before the anniversary date of their issuance, and no receipt shall be issued covering a longer term than one year. All processing fees are nonrefundable.

(Ord. No. 20101115, § 4, 11-15-2010)

#### **Sec. 5-4. Savings/repealing clause.**

All provisions of any ordinance in conflict with this chapter are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

(Ord. No. 20101115, § 5, 11-15-2010)

#### **Sec. 5-5. Prohibition against sales of alcoholic beverages in certain locations.**

It shall be unlawful for any person to engage in the business of, or to sell, alcoholic beverages within 300 feet of a church, public or private school or public hospital.

(Ord. No. 20101115, § 6, 11-15-2010)

#### **Sec. 5-6. Measurement of distance.**

(a) The measurement of the distance between the place of business where alcoholic beverages are sold and a public or private school shall be in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(c) Subsection (a) of this section does not apply to the holder or applicant of or for an alcohol license or permit who also holds a food and beverage certificate at the same premises that is located within 300 feet of a private or public school. Therefore, the measurement of distance between their place of business where alcoholic beverages are sold and a public or private school shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Ord. No. 20101115, § 7, 11-15-2010)

## Chapter 6

### ANIMALS\*

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\* **State Law References:** Local Public Health Reorganization Act, V.T.C.A., Health and Safety Code § 121.001 et seq.; animals, V.T.C.A., Health and Safety Code § 821.001 et seq.; dangerous dogs, V.T.C.A., Health and Safety Code § 822.001 et seq.; Rabies Control Act of 1981, V.T.C.A., Health and Safety Code § 826.001 et seq.; livestock, V.T.C.A., Agriculture Code § 141.001 et seq.; permitting a head of cattle or a domestic turkey to run at large in certain counties, V.T.C.A., Agriculture Code § 143.082; cruelty to animals, V.T.C.A., Penal Code § 42.09; dog fighting, V.T.C.A., Penal Code § 42.10; certain tax exemptions for charitable organizations, V.T.C.A., Tax Code § 11.18.

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#### Article I. In General

Secs. 6-1--6-30. Reserved.

#### Article II. Livestock and Fowl

Sec. 6-31. Running at large--Livestock.  
Sec. 6-32. Same--Fowl.  
Sec. 6-33. Keeping of hogs prohibited.  
Sec. 6-34. Keeping of livestock, fowl restricted.  
Sec. 6-35. Pens, enclosures required; maintenance.  
Sec. 6-36. Minimum area required for each horse or cow.  
Sec. 6-37. Enforcement of sections 6-34 through 6-36.  
Secs. 6-38--6-60. Reserved.

#### Article III. Animal Control

##### Division 1. Generally

Sec. 6-61. Definitions.  
Sec. 6-62. Interference with animal control officer.  
Sec. 6-63. Creation of nuisance.  
Sec. 6-64. Prohibited animals.  
Secs. 6-65--6-85. Reserved.

##### Division 2. Rabies Control

Sec. 6-86. Vaccination required.  
Sec. 6-87. Certificate of vaccination.  
Sec. 6-88. Rabies tags.  
Sec. 6-89. Duplicate tags.  
Sec. 6-90. Showing proof of vaccination upon demand.  
Sec. 6-91. Harboring unvaccinated animal.  
Sec. 6-92. Inspection for vaccination.  
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Sec. 6-94. Confinement of dogs, cats for observation.  
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Secs. 6-97--6-121. Reserved.

##### Division 3. Animals Running at Large

Sec. 6-122. Unlawful.  
Sec. 6-123. Injured animals.  
Sec. 6-124. Impoundment authorized.  
Sec. 6-125. Animal shelter.  
Sec. 6-126. Removal of animals from animal shelter.  
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Sec. 6-128. Disposition of impounded dogs and cats.  
Sec. 6-129. Disposition of impounded animal being held on complaint.  
Sec. 6-130. Vicious animals.  
Sec. 6-131. Guard dogs.  
Secs. 6-132--6-150. Reserved.

#### Division 4. Kennels

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##### Subdivision I. In General

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### ARTICLE I.

#### IN GENERAL

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### ARTICLE II.

#### LIVESTOCK AND FOWL\*

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\* **State Law References:** Control of animal diseases and pests, V.T.C.A., Agriculture Code ch. 161 et seq.; tuberculosis control, V.T.C.A., Agriculture Code ch. 162.

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#### Sec. 6-31. Running at large--Livestock.

It shall be unlawful for the owner or person in control of any cow, horse, mule, jack, jennet, sheep or goat to allow or permit it to run at large or be at large within the city.

(Code 1966, § 3-1; Code 1995, § 6-31)

**State Law References:** Animals at large, V.T.C.A., Local Government Code § 215.026.

**Sec. 6-32. Same--Fowl.**

It shall be unlawful for the owner or person in control of any chicken, duck, goose, turkey or other domestic fowl to allow or permit it to run at large or be at large within the city.

(Code 1966, § 3-2; Code 1995, § 6-32)

**Sec. 6-33. Keeping of hogs prohibited.**

It shall be unlawful for any person to keep any hog or allow any hog to be kept at any place in the city limits of the city.

(Code 1995, § 6-33)

**Sec. 6-34. Keeping of livestock, fowl restricted.**

It shall be unlawful for any person to keep any chicken, turkey, goose, guinea, duck, pigeon, horse, mule, jack, jenny, cow, calf, sheep or goat or similar animal or allow any such fowl or animal to be kept at any place in the city limits of the city which is less than 200 feet from any residence or dwelling house or from any business or professional establishment in the city.

(Code 1966, § 3-3; Code 1995, § 6-34)

**Sec. 6-35. Pens, enclosures required; maintenance.**

Any person owning or keeping any fowl or animal mentioned in section 6-34 shall keep it in a stable, shed, pen or other enclosure which shall be at all times maintained and kept in such a manner as not to become unsanitary, offensive or disagreeable to persons residing within the vicinity thereof and in such a manner as not to provide a breeding place for flies, mosquitoes or other disease-carrying insects and in such a manner as not to cause any injury to the health of the public or to any person residing in the vicinity of the stable, shed, pen or other enclosure.

(Code 1966, § 3-4; Code 1995, § 6-35)

**Sec. 6-36. Minimum area required for each horse or cow.**

There shall be a minimum space of 2,500 square feet for each horse and each cow kept within the city limits. The required stable, shed, pen or other enclosure may be located on this plot. Every additional horse and every additional cow that is kept on the same lot must be given an additional 2,500 square feet.

(Code 1966, § 3-5; Code 1995, § 6-36)

**Sec. 6-37. Enforcement of sections 6-34 through 6-36.**

The city administrator is hereby designated as inspector for the purpose of determining that all persons within the city are complying with the provisions of sections 6-34 through 6-36 and should the city administrator determine that the provisions of sections 6-34 through 6-36 are not being complied with by any person he is authorized, empowered, instructed and directed to institute or cause to be instituted on behalf of the city a suit for injunction against the person failing to comply with such sections in a court of competent

jurisdiction and to obtain a mandatory injunction requiring that the sections be complied with and/or enjoining such person from further violating the provisions of sections 6-34 through 6-36. Institution of a civil action against such person violating sections 6-34 through 6-36 shall not be a bar to the filing of a criminal complaint against the person hereunder or to prosecuting the person by reason of such offense.  
(Code 1966, § 3-8; Code 1995, § 6-38)

**Secs. 6-38--6-60. Reserved.**

### **ARTICLE III.**

#### **ANIMAL CONTROL\***

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\* **State Law References:** Animals, V.T.C.A., Health and Safety Code § 821.001 et seq.

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#### **DIVISION 1.**

#### **GENERALLY**

#### **Sec. 6-61. 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:

*Cat* means a domestic feline of either sex, including one neutered or sterilized.

*Dog* means a domestic canine of either sex, including one neutered or sterilized.

*Domestic animal* means all species of animals commonly and universally accepted as being domesticated.

*Harboring* means the act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter or care for a period of seven days.

*Kennel* means any establishment designed for the permanent or temporary boarding or keeping of animals.

*Owner* means any person who has right of property in an animal or who harbors an animal or allows an animal to remain about his premises for a period of seven days.

*Pet animal* means dogs, cats, rabbits, rodents, birds, reptiles and any other species of animal which is sold or retained as a household pet but shall not include skunks, nonhuman primates and any other species of wild, exotic or carnivorous animal that may be further restricted in this article.

*Pet shop* means any establishment where pet animals are kept for either wholesale or retail trade and includes all breeders, brokers, commission merchants, factors or other middlemen who import pet animals into

the city.

*Rabies vaccination* means the vaccination of a dog, cat or other domestic animal with an antirabies vaccine approved by the state department of health and administered by a veterinarian licensed by the state.

*Running at large* pertains to an animal off the premises of the owner and not under the physical, visible or audible control of the owner or his authorized representative. An animal intruding upon the property of a person other than the owner shall be termed "running at large." An animal within an automobile or other vehicle of its owner shall not be deemed "running at large."

*Stray animal* means any animal for which there is no identifiable owner or harborer.

*Vicious animal* means any animal that commits an unprovoked attack upon a person on public or private property or that attacks, threatens to attack or terrorizes a person on public property or in a public place.

*Wild animal* means all species of animals which exist in a natural unconfined state and are usually not domesticated.

(Code 1995, § 6-61; Ord. of 2-14-1983, §§ 1, 8.1, 9.1)

#### **Sec. 6-62. Interference with animal control officer.**

It shall be unlawful for any person to interfere with, molest, hinder or prevent the animal control officer or his authorized representatives in the discharge of their duties as prescribed in this article, or to violate any of the provisions of this article.

(Code 1995, § 6-62; Ord. of 2-14-1983, § 12.1)

#### **Sec. 6-63. Creation of nuisance.**

It shall be unlawful for any owner to harbor any dog, cat or other pet animal which by any sound or cry or other activity shall disturb the peace, comfort or property of the inhabitants of the neighborhood, and such disturbance is hereby declared to be a public nuisance.

(Code 1995, § 6-63; Ord. of 2-14-1983, § 5.2)

#### **Sec. 6-64. Prohibited animals.**

(a) *Enumeration.* It is hereby prohibited and it shall be unlawful for any person to import, offer for sale, keep, maintain, harbor or permit in the city any monkey or other nonhuman primate, skunk, raccoon, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, wildcat, panther, bear, wolf, coyote, fox, other carnivorous animal or poisonous reptile.

(b) *Endangered species.* It is hereby prohibited and it shall be unlawful for any person to import, offer for sale, keep, maintain, harbor or permit in the city any endangered species of animal as defined by the United States Department of the Interior.

(c) *Exceptions.* This section shall not apply to:

- (1) A bona fide publicly or privately owned zoological park.
- (2) A bona fide research institution using animals for scientific research.
- (3) A circus duly authorized to do business in the city.

(Code 1995, § 6-64; Ord. of 2-14-1983, §§ 10.1--10.3)

**State Law References:** 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).

**Secs. 6-65--6-85. Reserved.**

## **DIVISION 2.**

### **RABIES CONTROL\***

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\* **State Law References:** Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826; vaccination of dogs and cats required, V.T.C.A., Health and Safety Code § 826.016; vaccination requirement, 25 Tex. Admin Code § 169.29; municipality may establish local rabies control program, V.T.C.A., Health and Safety Code § 826.015.

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#### **Sec. 6-86. Vaccination required.**

Every owner of a dog or cat three months of age or older shall have such animal vaccinated against rabies. All dogs or cats vaccinated at three months of age or older shall be revaccinated at one year of age and once every three years thereafter. Any person moving into the city from a location outside of the city shall comply with this division within ten days after having moved into the city. If the dog or cat has inflicted a bite on any person or another animal within the last ten days, the owner of the dog or cat shall report such fact to the veterinarian, and no rabies vaccine shall be administered until after the ten-day observation period.

(Code 1995, § 6-86; Ord. of 2-14-1983, § 2.1)

#### **Sec. 6-87. Certificate of vaccination.**

Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. The certificate shall contain the following information:

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

(Code 1995, § 6-87; Ord. of 2-14-1983, § 2.2)

**Sec. 6-88. Rabies tags.**

Concurrent with the issuance and delivery of the certificate of vaccination referred to in section 6-87, the owner of the dog shall cause to be attached to the collar or harness of the vaccinated dog a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance and the name of the jurisdiction and state. The tag shall be worn by the dog at all times.  
(Code 1995, § 6-88; Ord. of 2-14-1983, § 2.3)

**Sec. 6-89. Duplicate tags.**

In the event of loss or destruction of the original tag provided for in section 6-88, the owner of the dog shall obtain a duplicate tag.  
(Code 1995, § 6-89; Ord. of 2-14-1983, § 2.4)

**Sec. 6-90. Showing proof of vaccination upon demand.**

It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this division.  
(Code 1995, § 6-90; Ord. of 2-14-1983, § 2.5)

**Sec. 6-91. Harboring unvaccinated animal.**

It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies as provided in this division, or which cannot be identified as having a current vaccination certificate.  
(Code 1995, § 6-91; Ord. of 2-14-1983, § 2.6)

**Sec. 6-92. Inspection for vaccination.**

The chief of police or his authorized deputies shall have the right at any reasonable time to inspect any dog to determine if it is vaccinated as required by this division and shall have the authority to enter any premises for such purpose, and it shall be unlawful for any person to refuse entrance to the chief of police or his deputies or to impede, obstruct or exclude any of them when attempting to enter the premises for the purpose of inspecting the dog.  
(Code 1966, § 6-15; Code 1995, § 3-92)

**Sec. 6-93. Bites from animals susceptible to rabies; reports, procedures.**

(a) *Duty to report.* Any person having knowledge that an animal has bitten a human shall immediately report the incident to the city animal control officer, or the deputy animal control officer. Every physician or other medical practitioner who treats a person for such bites shall within 12 hours report such treatment to the city animal control officer, or to the deputy animal control officer, giving the name, age, sex and precise location of the bitten person and such other information as the officer or agency may require.

(b) *Exclusions.* Human bites from rodents, rabbits, birds and reptiles are excluded from the reporting requirements of this section.

(c) *Suspected rabies.* Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the city animal control officer or the deputy control officer stating precisely where such animal may be found. If a known or suspected rabid animal bites or attacks a domestic animal, the incident shall also be reported as required above. (Code 1995, § 6-93; Ord. of 2-14-1983, §§ 3.1--3.3)

**State Law References:** Report of potential human exposure to rabies, 25 Tex. Admin. Code § 169.25.

#### **Sec. 6-94. Confinement of dogs, cats for observation.**

Any dog or cat which has bitten a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency. If the dog or cat is not confined on the owner's premises, confinement shall be by impoundment at any veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner. Stray dogs or cats whose owners cannot be located shall be confined in the city animal shelter. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment, as prescribed in this section. Refusal to produce the dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation.

(Code 1995, § 6-94; Ord. of 2-14-1983, § 3.4)

**State Law References:** Quarantine method and testing, 25 Tex. Admin. Code § 169.27.

#### **Sec. 6-95. Unauthorized removal of dogs, cats from confinement.**

It shall be unlawful for any person to remove from any place of confinement any dog or cat which has been confined as authorized, without the consent of the impounding agency.

(Code 1995, § 6-95; Ord. of 2-14-1983, § 3.5)

#### **Sec. 6-96. Procedures for other animal bites.**

Procedures concerning bites from other animals shall be discussed with the city animal control officer or the deputy animal control officer for proper disposition. Any wild animal which has bitten a person shall be caught and killed and the brain immediately submitted to a qualified laboratory for rabies examination. Rodents, rabbits, birds and reptiles are not considered to be transmitters of the rabies virus and should not be submitted for laboratory examination for rabies.

(Code 1995, § 6-96; Ord. of 2-14-1983, § 3.6)

#### **Secs. 6-97--6-121. Reserved.**

### **DIVISION 3.**

#### **ANIMALS RUNNING AT LARGE\***

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\* **State Law References:** Type A municipality may regulate animals running at large, V.T.C.A., Local Government Code § 215.026.

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#### **Sec. 6-122. Unlawful.**

It shall be unlawful for any person owning a dog or cat or other pet animal to permit such animal to run at large.

(Code 1995, § 6-121; Ord. of 2-14-1983, § 5.1)

**State Law References:** Municipal authority to require restraint of dogs and cats, V.T.C.A., Health and Safety Code § 826.033(a)(1).

#### **Sec. 6-123. Injured animals.**

Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injured animal is treated and/or impounded, the owner of the animal shall be liable for all expenses of the treatment and/or the impoundment.

(Code 1995, § 6-123; Ord. of 2-14-1983, § 5.4)

#### **Sec. 6-124. Impoundment authorized.**

Animals owned or harbored in violation of this division or any other ordinance or law of the state shall be taken into custody and impounded by an animal control officer or other designated official. Stray animals shall be similarly impounded.

(Code 1995, § 6-124; Ord. of 2-14-1983, § 7.1)

#### **Sec. 6-125. Animal shelter.**

A suitable animal shelter shall be provided for the purpose of boarding and caring for any animal impounded under the provisions of this division.

(Code 1995, § 6-125; Ord. of 2-14-1983, § 7.2)

#### **Sec. 6-126. Removal of animals from animal shelter.**

It shall be unlawful for any person to remove any impounded animal from the animal shelter without the consent of the animal control officer or designated official or agency.

(Code 1995, § 6-126; Ord. of 2-14-1983, § 7.3)

#### **Sec. 6-127. Removal of biting dogs and cats from confinement.**

The impoundment of dogs and cats that have inflicted human bites shall be for a period of ten days for observation and shall not be terminated until consent from the proper officer or agency is secured.

(Code 1995, § 6-127; Ord. of 2-14-1983, § 7.4)

#### **Sec. 6-128. Disposition of impounded dogs and cats.**

As soon as practicable after impoundment, notice of impoundment shall be posted in a conspicuous place at city hall for three days. If the owner of the impounded dog or cat is known, immediate notice shall be given to him. Any impounded dog or cat may be redeemed by the owner upon payment of the impoundment fee, care and feeding charges and such other costs as set by the city council. If the animal is not redeemed within three days, it shall be considered abandoned and may be placed for adoption subject to payment of the impoundment fee, care and feeding charges, veterinary charges, and such other costs as set by the city council,

or the animal control officer may humanely euthanize (kill) the animal.  
(Code 1995, § 6-128; Ord. of 2-14-1983, § 7.5)

**Sec. 6-129. Disposition of impounded animal being held on complaint.**

If a complaint has been filed in the municipal court of the city against the owner of an impounded animal for a violation of this division, the animal shall not be released except on the order of the court which may also direct the owner to pay any penalties for violation of this division in addition to all impoundment fees. The court may, upon making a finding that the animal is vicious or that it represents a clear and present danger to the citizens or other animals in the community, order the animal to be euthanized in a humane manner. Surrender of an animal by the owner thereof to the animal warden does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this division.  
(Code 1995, § 6-130; Ord. of 2-14-1983, § 7.7)

**Sec. 6-130. Vicious animals.**

No person shall own or harbor a vicious animal within the city. Such an animal shall be impounded as a public nuisance. If impoundment of the animal running at large cannot be made with safety to the animal control officer or other persons, the animal may be destroyed without notice to the owner or harborer.  
(Code 1995, § 6-131; Ord. of 2-14-1983, § 6.1)

**Sec. 6-131. Guard dogs.**

It shall be unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property unless the dog is physically confined to a specific area, or is under complete and absolute control. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two inches high.  
(Code 1995, § 6-132; Ord. of 2-14-1983, § 6.2)

**Secs. 6-132--6-150. Reserved.**

**DIVISION 4.**

**KENNELS**

*Subdivision I.*

**In General**

**Secs. 6-151--6-160. Reserved.**

*Subdivision II.*

**License**

**Sec. 6-161. Required; operation.**

No person, group of persons or business entity shall own, keep or harbor more than three dogs of more than three months of age or more than one litter of pups or more than three cats of more than three months of age or more than one litter of kittens, or more than a total of six dogs and cats more than three months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training or boarding dogs or cats or both dogs and cats or other pet animals without having obtained a valid kennel license from the city secretary.

(Code 1995, § 6-151; Ord. of 2-14-1983, § 8.1)

**Sec. 6-162. Issuance, conditions, renewal.**

Kennel licenses shall expire on December 31 of each year. No kennel license shall be issued until an inspection certificate shall have been issued by the city secretary. The yearly license fee for kennels shall be determined by the city council. The license issued shall specify the maximum number of animals permitted to be kept, handled or exhibited by the licensee. It shall be unlawful for the licensee to keep, handle or exhibit any number of animals in excess of the maximum specified on the license.

(Code 1995, § 6-152; Ord. of 2-14-1983, § 8.2)

**Sec. 6-163. Revocation or suspension.**

Any kennel licensed under this division found to be in violation of any zoning law, health law, or any other applicable law of the city or of the state or that is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity, may have its kennel license suspended or revoked.

(Code 1995, § 6-153; Ord. of 2-14-1983, § 8.3)

**Sec. 6-164. Exceptions to subdivision requirements.**

This division shall not apply to and will not be construed to require a kennel license for:

- (1) A veterinary hospital operated by a licensed veterinarian which retains animals for veterinary medical care.
- (2) A bona fide publicly or privately owned zoological park.
- (3) A bona fide research institution using animals for scientific research.
- (4) A publicly owned animal pound.

(Code 1995, § 6-154; Ord. of 2-14-1983, § 8.4)

**Secs. 6-165--6-175. Reserved.**

**DIVISION 5.**

**PET SHOPS**

*Subdivision I.*

**In General**

**Secs. 6-176--6-185. Reserved.**

*Subdivision II.*

**License**

**Sec. 6-186. Required; operation.**

No person, group of persons or business entity shall own or operate a pet shop without having obtained a valid pet shop license from the city secretary.  
(Code 1995, § 6-176; Ord. of 2-14-1983, § 9.1)

**Sec. 6-187. Issuance, conditions, renewal.**

Pet shop licenses shall expire on December 31 of each year. No pet shop license shall be issued until an inspection certificate shall have been issued by the city health inspector. The yearly license fee for pet shops shall be determined by the city council. Pet shops shall be confined in a building that is totally enclosed and all pet animals shall be confined exclusively to the building. The pet shop may not have outside runs or pens and none of the animals owned by the pet shop are to be harbored or housed outside of the building at any time for any reason.  
(Code 1995, § 6-177; Ord. of 2-14-1983, § 9.2)

**Sec. 6-188. Revocation or suspension.**

Any pet shop licensed under this division found to be in violation of any zoning law, health law or any other applicable law of the city or of the state, or that is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity, may have its pet shop license suspended or revoked.  
(Code 1995, § 6-178; Ord. of 2-14-1983, § 9.3)

**Secs. 6-189--6-200. Reserved.**

**DIVISION 6.**

**INHUMANE TREATMENT**

**Sec. 6-201. Cruelty to animals.**

It is hereby prohibited and it shall be unlawful for any person to commit or cause to be committed any act of cruelty, harassment or torture to any animal or intentionally cause such animal to be mutilated or inhumanely killed. Ownership or the commission of such acts of cruelty on private property shall not be a justifiable defense for violation of this section.

(Code 1995, § 6-201; Ord. of 2-14-1983, § 11.1)

**State Law References:** Cruelty to animals, V.T.C.A., Penal Code § 42.09.

**Sec. 6-202. Poisoning.**

It is hereby prohibited and it shall be unlawful for any person to poison any domestic animal or to distribute poison or toxicants on public or private property in any manner whatsoever with the intent of poisoning any domestic animal.

(Code 1995, § 6-202; Ord. of 2-14-1983, § 11.2)

**Sec. 6-203. Abandonment, neglect.**

It is hereby prohibited and shall be unlawful for any person to willfully abandon any animal; or to withhold food or water from any animal such that its health is endangered, or it is caused to suffer unduly.

(Code 1995, § 6-203; Ord. of 2-14-1983, § 11.3)

**Sec. 6-204. Display or sale of dyed or immature animals.**

It is hereby prohibited and it shall be unlawful for any person to possess, display, sell, barter or give away dyed, colored or in any way artificially treated baby chicks, ducklings, fowl, rabbits or any animals as pets, play things, novelties, gifts or for any other purpose. This section shall not be construed to prohibit their display by hatcheries, stores, owners, dealers or persons engaged in the business of selling such immature animals to be raised for food; but no such hatcheries, stores, owners, dealers or persons shall sell or give away baby chicks, ducklings or any other immature domestic fowl as pets, play things, novelties or gifts.

(Code 1995, § 6-204; Ord. of 2-14-1983, § 11.4)

**Sec. 6-205. Fighting animals.**

It is hereby prohibited and it shall be unlawful for any person to cause, instigate or encourage any dog or other animal to fight with another of its own species or with another of a different species. It shall be unlawful for any person to train or keep any dog or other animal for the purpose of fighting. It shall be unlawful for any person to maintain a place where any dog or other animal is permitted to fight for exhibition or for wager or for sport.

(Code 1995, § 6-205; Ord. of 2-14-1983, § 11.5)

**State Law References:** Dogfighting, V.T.C.A., Penal Code § 42.10.

**Chapters 7--9**

**RESERVED**

## Chapter 10

### BUILDINGS AND BUILDING REGULATIONS\*

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\* **State Law References:** Municipal regulation of housing and other structures, V.T.C.A., Local Government Code § 214.001 et seq.; International Building Code is municipal code for commercial buildings, V.T.C.A., Local Government Code § 214.216; municipal authority concerning substandard buildings, V.T.C.A., Local Government Code § 214.001 -- 214.00111; establishment of building lines, V.T.C.A., Local Government Code § 213.001 et seq.; municipal regulation of structures, V.T.C.A., Local Government Code §§ 214.001 et seq., 342.002.

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#### Article V. Dangerous and Substandard Buildings and Structures

Sec. 10-141. Authority regarding substandard buildings.  
Sec. 10-142. Seizure and sale of property to recover expenses.  
Sec. 10-143. Conflict with other sections of this code.  
Sec. 10-144. Conflict with state law.  
Secs. 10-145--10-160. Reserved.

#### Article VI. Mechanical Code

Sec. 10-161. International Mechanical Code adopted.  
Sec. 10-162. Amendments.  
Sec. 10-163. Conflicting ordinances.  
Sec. 10-164. Severability.  
Sec. 10-165. Impending suits or court actions.  
Secs. 10-166--10-180. Reserved.

#### Article VII. Residential Code

Sec. 10-181. International Residential Code adopted.  
Sec. 10-182. Amendments.  
Sec. 10-183. Conflicting ordinances.  
Sec. 10-184. Severability.  
Sec. 10-185. Impending suits or court actions.  
Secs. 10-186--10-199. Reserved.

#### Article VIII. Signs

Sec. 10-200. Compliance with article; permits.  
Sec. 10-201. Definitions.  
Sec. 10-202. Prohibited signs.  
Sec. 10-203. Off-premises signs not allowed.  
Sec. 10-204. On-premises signs regulated.  
Sec. 10-205. Electronic signs regulated.  
Sec. 10-206. Signs exempted from regulation.  
Sec. 10-207. Temporary signs.  
Sec. 10-208. Nonconforming signs.  
Sec. 10-209. Violations.  
Secs. 10-210--10-220. Reserved.

#### Article IX. Fuel Gas Code

Sec. 10-221. International Fuel Gas adopted.  
Sec. 10-222. Amendments.  
Sec. 10-223. Conflicting ordinances.  
Sec. 10-224. Severability.  
Sec. 10-225. Impending suits or court actions.

Secs. 10-226--10-230. Reserved.

**Article X. Fire Code**

**Sec. 10-231. International Fire adopted.**

**Sec. 10-232. Amendments.**

**Sec. 10-233. Geographic limits.**

**Sec. 10-234. Conflicting ordinances.**

**Sec. 10-235. Impending suits or court actions.**

**ARTICLE I.**

**IN GENERAL**

**DIVISION 1.**

**GENERALLY**

**Sec. 10-1. Compliance with article.**

No building, wall or structure shall be built, enlarged or altered after January 8, 1962, except in strict accord with the provisions of this article.

(Code 1966, § 4-1; Code 1995, § 10-1)

**Sec. 10-2. Appointment, term, compensation of building inspector.**

The office of building inspector in and for the city is hereby created and established, and such office holder shall be appointed by the mayor with the approval of the city council. The city administrator shall supervise the conduct of the building inspector and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The building inspector shall serve at the will of the city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified. The building inspector shall be well versed in the rules, regulations and requirements of the building code adopted by the city.

(Ord. No. 20041108-1, § 5 (10-3), 11-08-2004)

**Sec. 10-3. Duty to construct retaining walls, structures; effect of failure to take appropriate action.**

No wall, structure, building or other improvement or part thereof shall be built, constructed, enlarged or altered within the city limits if such activity will disturb the surface of the earth unless the person responsible for such activity shall have, prior to the commencement of such activity, constructed such retaining walls and structures and done all such other things and taken all such other actions as may be necessary to be done and taken in order to prevent the top soil, subsoil, other materials and building materials from being moved, and to prevent such change or alteration in the natural flow of surface water and rainwater as will cause the water to flow unnaturally, from the property on which such activity is taking place onto a city street or alley. Failure to take all such action and to do all such things as may be necessary to prevent the movement of topsoil, subsoil, other materials and the unnatural movement of rainwater and surface water onto a city street or alley is declared to be unlawful and a misdemeanor and shall be punished as provided in section 1-10. It is further provided that failure to take such actions and to do such things as are required by this section shall authorize the building inspector to notify the person owning the property on which the activity is taking place and/or the person doing

or causing to be done such building, construction, enlargement or alteration of such failure to do such things and take such action and if the failure is not remedied within 24 hours after such notice is given the building inspector may, at his sole discretion, do whatever is necessary to remedy the condition or cause it to be done and charge the expense incurred thereby to the owner of the lot or premises on which the activity is taking place and the expense shall be assessed against the real estate upon which the activity is being or has been conducted. The doing of such work and the charging and assessing of the expenses thereof against the owner shall not relieve the owner or occupant of prosecution for violation of this section.  
(Code 1966, § 4-2.1; Code 1995, § 10-4)

#### **Sec. 10-4. Fire limits established.**

The following shall be and are hereby declared to be the fire limits of the city:

Beginning at the northeast corner of lot no. 1 in block no. 19 of the city in the south line of Pavilion Street; thence west along the south line of Pavilion Street to the east line of Village Street at northwest corner of lot 5 in block no. 19; thence south along the east line of Village Street to the north line of Wheat Street at the southeast corner of lot no. 7 in block no. 18; thence east along the north line of Wheat Street to the east line of Charlton Street at the southeast corner of lot no. 6 in block no. 18; thence south along the west line of Charlton Street to the southeast corner of lot no. 2 in block no. 17; thence east along the alley on the south line of lots no. 6, 7, 8, 9, 10 and 11 in block no. 14 to Magnolia Street, across Magnolia Street along the south line of lot no. 4 in block no. 7 to the southeast corner of lot no. 4 in block no. 7; thence north along the alley from the southeast corner of lot no. 4 in block no. 7 to the northeast corner of lot no. 5 in block no. 9; thence west from the northeast corner of lot no. 5 in block no. 9 along the south line of Pavilion Street to the beginning.

(Code 1966, § 4-3; Code 1995, § 10-5)

#### **Sec. 10-5. Work plans and permits.**

(a) *New building, enlargement, alteration.* No wall, structure or building or part thereof shall be built, enlarged or altered within the city limits until a plan of the proposed work, together with a statement of the materials to be used, has been submitted to the city administrator and approved by him and until a written permit therefor has been issued by the city administrator. No wall, structure, building or part thereof shall be approved by the city administrator and no written permit will be issued by the city administrator unless the plan of the proposed work and the statement of materials to be used provide for the building, enlargement or alteration thereof in strict accordance with the provisions of this chapter and all applicable provisions of state law. Such permits shall be kept on file by the city administrator.

(b) *Building moving.* No building shall be moved from without to within the fire limits nor from one location to another within the fire limits until a permit shall have been issued therefor. No permit shall be issued unless such construction is in accordance with this article.

(c) *Fees.* Each application for a permit under this section shall be accompanied by a fee, as set from time to time by the council, which amount shall be retained by the city to cover the processing of such application, whether the permit is issued or not. Should such application be approved, an additional fee, as follows, will be paid to the city before the permit is issued: \$5.00 per \$1,000.00 of the contract price, minimum \$25.00.

(d) *Work started prior to obtaining permit.* Where work for which a permit is required by this article is started or proceeded with prior to obtaining the permit, the fees specified in this section shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this article in the execution of the work nor from any other penalties prescribed in this article. Noncompliance with this article will result in delayed utility services.

(Code 1966, § 4-4; Code 1995, § 10-6; Ord. No. 92-7, 12-14-1992; Ord. No. 20050912, § 1, 9-12-2005)

#### **Sec. 10-6. Inspections; access.**

The building inspector shall inspect, as often as practical, construction in progress to see that all provisions of this article are being complied with. Notice shall be given two days prior to requesting inspection of any construction. The contractor shall provide access for all required inspections.

(Code 1966, § 4-5; Code 1995, § 10-7; Ord. No. 92-8, 12-14-1992)

#### **Sec. 10-7. General construction requirements.**

(a) No building or structure of wooden, stucco or veneer type construction, or of ironclad construction where wooden supports are used, or any building or structure whose walls, ceiling, attic or roof supports contain wooden or combustible materials, framing or supports, shall be permitted within the fire limits or in the case of any wall, structure, building or a part thereof in the city within ten feet of the property line of the property on which located or within ten feet of any existing building or wall, except only in those specific instances indicated in section 10-9. The thickness of walls shall be not less than as given below:

- (1) Brick walls shall be not less than 12 inches thick, except that one-story buildings with floor areas of 750 square feet or less may have walls eight inches thick.
- (2) Reinforced concrete walls may be three-fourths of the thickness of brick walls, but in no case less than eight inches.
- (3) Hollow building tile may be used as filler walls provided such walls are supported on reinforced concrete beams and footings, and by adequate reinforced concrete or brick pillars or columns spaced not more than 16 feet apart, such walls to be not less than 12 inches thick. One-story buildings of less than 500 square feet floor area may have walls of eight-inch hollow building tile.
- (4) Solid stone walls shall be four inches thicker than brick walls for like construction. All exterior walls, party walls and division firewalls shall have parapets extending at least 18 inches above the roof, and such parapets shall be at least 12 inches thick, except where eight-inch walls are permitted as above, in which case parapets may be eight inches thick.

(b) Extensions, remodeling or additions to existing buildings shall not be considered as repairs, and shall not be permitted except when conforming with this section.

(Code 1966, § 4-6; Code 1995, § 10-8)

#### **Sec. 10-8. Permissible frame structures in fire limits.**

Only the following frame structures are permissible in the fire limits:

- (1) Temporary one-story frame buildings for the use of builders.
- (2) Wooden fences not over eight feet high without roof or cover.
- (3) Mobile homes, trailer houses and portable buildings temporarily located within the fire limits and held for the purpose of sale, provided no such mobile home, trailer house or portable building is located within 30 feet of any existing permanently located structure.

(Code 1966, § 4-7; Code 1995, § 10-9)

**State Law References:** Wooden buildings, V.T.C.A., Local Government Code § 342.002.

### **Sec. 10-9. Roof requirements.**

All buildings or structures constructed in the fire limits after January 8, 1962, shall have incombustible roof coverings. No roofing on an existing roof shall be renewed or repaired to a greater extent than ten percent of the roof surface, except in conformity with this article, and in no instance shall more than one permit be issued each existing building in any one year.

(Code 1966, § 4-8; Code 1995, § 10-10)

### **Sec. 10-10. Removal of nonconforming structures.**

Structures erected after January 8, 1962, without a permit or not in conformity with this article shall be removed. Any existing building within the fire limits or any structure within the fire limits or any building or structure or wall within the city located within ten feet of the property line of the property on which located or within ten feet of any existing building or wall, which does not comply with the requirements of this article and which is damaged by fire, decay or otherwise to an amount greater than 50 percent of its present value, exclusive of the foundation, shall not be repaired or rebuilt, but shall be removed.

(Code 1966, § 4-9; Code 1995, § 10-11)

### **Sec. 10-11. Arbitration of disputes under article.**

Whenever an application for a permit to repair any existing building already located within the fire limits or within ten feet of the property line or within ten feet of any existing building or wall is made by any person, and the city council and the applicant disagree on the extent of repairs to be made, and a permit is denied by the city administrator, the city council shall appoint a competent and disinterested person and the applicant shall appoint a competent and disinterested person, which two persons so appointed shall select a third person, and these three persons shall appraise the building, examine the plan of the proposed work and the statement of materials and labor to be used in the repairing or rebuilding of the building, and make a signed written report of their findings to the city council. If such report reflects clearly that the rebuilding or repairing would be a violation of this article, the application for permit shall be denied by the council. If such report reflects that the person seeking the permit has complied with this article, and the requested rebuilding or repairing is not in violation of this article, the city council shall issue a permit for the proposed rebuilding or repairing.

(Code 1966, § 4-10; Code 1995, § 10-12)

**Sec. 10-12. Building lines and building setback requirements.**

All residential buildings and all extensions of said buildings shall be set behind a building line which is hereby established as being a line parallel to and a minimum of 25 feet behind the right-of-way line of the nearest street. Where the right-of-way line cannot be positively established, the building line shall be 45 feet from the centerline of the nearest street. Buildings, including outbuildings, must be no less than ten feet from the rear and each side boundary line of the lot.

Where such building lines or setback requirements make it impossible or impractical to construct a home on said residential lot, the owner of the lot may petition the city council for a waiver of said requirements by submitting a request for waiver along with a lot sketch indicating the building line and/or setback being requested by the owner.  
(Ord. No. 20070219-2, § 1, 2-19-2007)

**DIVISION 2.**

**BUILDING CODE\***

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\* **Editors Note:** Ord. No. 20110613-1, §§ 1--5, adopted June 13, 2011, did not specify manner of inclusion. Hence, to facilitate indexing, said provisions have been codified herein as Div. 2, §§ 10-13--10-17.

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**Sec. 10-13. International Building Code adopted.**

A certain document, three copies of which are on file in the office of the city secretary of the city, being marked and designated as the International Building Code, 2006 edition, including Appendix Chapters D, F and J (see International Building Code Section 101.2.1, 2006 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of City of Woodville, in the State of Texas, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in section 10-14 of this division.  
(Ord. No. 20110613-1, § 1, 6-13-2011)

**Sec. 10-14. Amendments.**

Section 101.1. Insert: The City of Woodville, Texas

Section 903.2.1.2.2. Replace: 100 with 300

Section 1612.3. Insert: The City of Woodville, Texas

Section 1612.3. Insert: April 4, 2011

Section 3410.2. Insert: June 13, 2011  
(Ord. No. 20110613-1, § 1, 6-13-2011)

**Sec. 10-15. Conflicting ordinances.**

Any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.  
(Ord. No. 20110613-1, § 3, 6-13-2011)

**Sec. 10-16. Severability.**

If any section, subsection, sentence, clause or phrase of this division is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this division. The city council hereby declares that it would have passed this division, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.  
(Ord. No. 20110613-1, § 4, 6-13-2011)

**Sec. 10-17. Impending suits or court actions.**

Nothing in this division or in the building code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in [section 10-15] of this division; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this division.  
(Ord. No. 20110613-1, § 5, 6-13-2011)

**Secs. 10-18--10-45. Reserved.**

**ARTICLE II.**

**PLUMBING CODE\***

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\* **State Law References:** Municipal authority concerning plumbing and house draining, V.T.C.A., Local Government Code, § 214.012.

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**Sec. 10-46. International Plumbing Code adopted by reference.**

A certain document, three copies of which are on file in the office of the city secretary of city, being marked and designated as the International Plumbing Code, 2006 edition as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Woodville, in the State of Texas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in section 10-46.1 of this article.

(Code 1995, § 10-46; Ord. No. 20110613-2, § 1, 6-13-2011)

**Sec. 10-46.1. Amendments.**

The following sections are hereby revised:

Section 101.1. Insert: City of Woodville

Section 106.6.2. Insert: \$0.03 per square foot with a \$25.00 minimum plus applicable inspection fees.

Section 106.6.3. Insert: eighty (80), eighty (80)

Section 108.4. Insert: Class C Misdemeanor, five-hundred

Delete: or imprisonment not exceeding [NUMBER OF DAYS], or both such fine or imprisonment.

Section 108.5. Insert: fifty, five hundred

Section 305.6.1. Insert: 12 inches, 12 inches,

Section 904.1. Insert: 12 inches  
(Ord. No. 20110613-2, § 2, 6-13-2011)

**Sec. 10-46.2. Conflicting ordinances.**

Any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.  
(Ord. No. 20110613-2, § 3, 6-13-2011)

**Sec. 10-46.3. Severability.**

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed this article, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.  
(Ord. No. 20110613-2, § 4, 6-13-2011)

**Sec. 10-46.4. Impending suits or court actions.**

Nothing in this article or in the plumbing code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in section [10-46.2] of this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.  
(Ord. No. 20110613-2, § 5, 6-13-2011)

**Sec. 10-47. Water conservation code adopted by reference.**

Appendix J (Water Conservation) of the Standard Plumbing Code, 1991 edition, is hereby adopted and made a part of this article as fully as though copied in full.  
(Code 1995, § 10-47; Ord. No. 88-12, 10-10-1988)

**Sec. 10-48. Appointment, term and compensation of plumbing inspector.**

The office of plumbing inspector in and for the city is hereby created and established, and such office holder shall be appointed by the mayor with the approval of the city council. The city administrator shall supervise the conduct of the plumbing inspector and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The plumbing inspector shall serve at the will of city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified. The plumbing inspector shall be well versed in the rules, regulations and requirements of the code(s) adopted by the city.

(Ord. No. 20041108-1, § 6 (10-48), 11-08-2004)

**Sec. 10-49. Plumbing permit.**

Plumbing permit fees, criteria and requirements shall be as determined from time to time by ordinance.

**Secs. 10-50--10-75. Reserved.**

**ARTICLE III.**

**ELECTRICAL CODE\***

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\* **State Law References:** National Electrical Code is statewide municipal electrical code, V.T.C.A., Local Government Code § 214.214.

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**Sec. 10-76. 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:

*Electrical wiring and apparatus* includes all material, devices, machinery, appliances or conductors used in connection with the supplying of electrical energy for lights, heat or power or the transmission of electrical signals.

(Code 1966, § 7-2; Code 1995, § 10-76)

**Sec. 10-77. Application of article.**

The provisions of this article shall be applicable to all electrical work and electrical wiring and apparatus done, performed or installed within the city from and after March 11, 1963, only in connection with:

- (1) All new construction; and

- (2) All electrical work and wiring requiring an additional circuit in conjunction with additions or alterations to existing buildings.

(Code 1966, § 7-3; Code 1995, § 10-77)

**Sec. 10-78. Electrical inspector.**

(a) *Office created; appointment.* The office of electrical inspector in and for the city is hereby created and established, and such office holder shall be appointed by the mayor with the consent of the city council.

(b) *Conduct; compensation.* The city administrator shall supervise the conduct of the electrical inspector and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The electrical inspector shall serve at the will of city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified.

(c) *Qualifications.* The electrical inspector shall be well versed in the rules, regulations and requirements of the electric code(s) adopted by the city.

(Ord. No. 20041108-1, § 7(10-78), 11-8-2004)

**Sec. 10-79. Enforcement of article provisions.**

It shall be the duty of the electrical inspector to enforce the provisions of this article and any ordinance which may be adopted concerning electric wiring or apparatus.

(Code 1966, § 7-5; Code 1995, § 10-79)

**Sec. 10-80. Records, reports of electrical inspector.**

The electrical inspector shall keep a complete record of all permits issued, bonds filed, inspections made, and other official work performed by him as required by this article, and he shall make such reports thereof to the city council from time to time as the council shall direct.

(Code 1966, § 7-6; Code 1995, § 10-80)

**Sec. 10-81. Right of entry.**

The electrical inspector shall have the right, during reasonable hours, to enter any building in the discharge of his official duties, or for the purpose of making any test or inspection of the electrical wiring and apparatus therein contained, and for that purpose he shall be given prompt access to all buildings, private or public, on application to the company or individual owning or in charge or control of them.

(Code 1966, § 7-7; Code 1995, § 10-81)

**Sec. 10-82. Interference with inspector.**

No person shall interfere with the electrical inspector while in the performance of duty and each interference shall be deemed to constitute a separate offense with the intent and meaning of this section.

(Code 1966, § 7-8; Code 1995, § 10-82)

**Sec. 10-83. Electrician's license required.**

All persons who engage in or work at the actual installation, alteration, repair and renovation of electrical work shall possess an electrician's license issued by the state .  
(Code 1966, § 7-9; Code 1995, § 10-83)

**Sec. 10-84. Work permit and bond requirements.**

(a) It shall be unlawful for any person to commence the installation or alteration of any electrical work, wiring or apparatus, for use in connection with electric light, heating or power either outside or inside of any building within the city, without first obtaining a permit to do so from the city administrator. Application for such permit shall be made in writing, in person or through a duly authorized agent, at the city office on forms furnished by the city administrator. Such application shall contain a description, by street and number or by lot and block number, as may be necessary to identify the location of the work to be done. A permit fee of \$0.03 per square foot of building, minimum \$25.00, or as may be set from time to time by the Council, for any construction shall be paid by the applicant before the permit shall be issued. All such permit fees shall be disposed of as the city council may direct from time to time.

(b) Liability insurance must be maintained pursuant to state law.

(c) Any person making application for a permit for electrical work to be done by such applicant in person on his personal residence or improvements to be used as his personal residence but will be required to obtain the permit and inspections of the work as provided for in this article.

(d) Any failure on the part of a permittee to comply with the provisions of this article regulating electrical wiring and apparatus or to faithfully carry out the conditions of a contract for installing electric wiring and apparatus shall be deemed sufficient cause for the forfeiture of any bond requirement of the city council, by order entered to such effect after hearing, upon the recommendation of the electrical inspector. The amount realized upon the forfeiture of any bond over and above the expense involved in its forfeiture shall be expended in making the necessary changes in the electric wiring and apparatus found to be contrary to the provisions of this article or deficient in quality or other particulars as specified in the contract entered into and covered by the bond, and the unused balance, if any, shall be paid into the city treasury to be used for such purpose as the city council may direct.

(Code 1966, § 7-10; Code 1995, § 10-84; Ord. No. 20050912, § 1, 9-12-2005)

**Sec. 10-85. Inspections and approval of work.**

(a) There shall be two inspections of all work provided for by a permit granted under section 10-84. One inspection shall be made when roughing-in is completed and the second inspection shall be made upon the completion of the work. The inspections shall be made by the electrical inspector and no inspection fees shall be collected for either of the two regular inspections. If additional inspections are required at the discretion of the electrical inspector, because of any defect or deficiency in the work or apparatus at the time inspected on either the first or second inspection, or for any other good cause, no inspection fee shall be collected. All such inspection fees shall be disposed of as the city council may direct.

(b) Application for electrical inspections required by this section must be made at the city office in the forenoon if desired in the afternoon of the same day, or in the afternoon if inspection is desired in the forenoon of the next regular working day. Saturdays, Sundays and holidays shall not be considered as working days.

(c) If electrical work or electrical wiring and apparatus is found to be performed, furnished or installed in accordance with all rules and requirements governing them, the electrical inspector shall issue a certificate approving them.

(d) Upon the completion of the installation of electric wires and apparatus in any building for use in connection with electric light, heat or power, it shall be the duty of the person doing the work to notify the electrical inspector, who shall at once inspect the work and, if approved by him, shall issue a certificate of satisfactory inspection which shall contain the date of inspection and outline of the results of the examination. No certificate shall be issued unless all electrical wiring and apparatus connected therewith are in strict conformity with the rules and regulations set forth in this article, nor shall current be turned on any wiring and apparatus until a certificate of satisfactory inspection is issued.

(Code 1966, § 7-11; Code 1995, § 10-85)

#### **Sec. 10-86. Concealment of wiring or apparatus.**

No person shall conceal or cause to be concealed any electrical wiring or apparatus mentioned in this article except with the express permission of the electrical inspector, and he is hereby authorized and directed to require the removal of any flooring, lathing or plaster, sheetmetal or other material which may conceal any electrical wiring or apparatus contrary to the provisions of this article. On completion of the inspection of any electrical wiring or apparatus designed to be concealed and found to be in full compliance with the provisions of this article, it shall be the duty of the electrical inspector to post a notice to that effect at the main cutout center, which shall be considered as an express permission to conceal the electrical wiring and apparatus, but no concealment shall take place until such notice has been posted by electrical inspector.

(Code 1966, § 7-12; Code 1995, § 10-86)

#### **Sec. 10-87. National Electrical Code adopted.**

A certain document, three copies of which are on file in the office of the city secretary of city, being marked and designated as the National Electric Code, 2008 edition as published by the National Fire Protection Association, be and is hereby adopted as the Electric Code of the City of Woodville, in the State of Texas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this section, with the additions, insertions, deletions and changes, if any, prescribed in section 10-88 of this article.

(Ord. No. 11122007-3, § 1, 11-12-2007; Ord. No. 20110613-3, § 1, 6-13-2011)

**Editors Note:** Section 5 of Ord. No. 20110613-3, adopted June 13, 2011 states: "Nothing in this ordinance or in the electrical code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in section [3] of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance."

**State Law References:** National Electrical Code adopted as statewide municipal electrical construction code, V.T.C.A.,

Local Government Code § 214.214(a).

**Sec. 10-88. Miscellaneous specifications.**

The following specifications shall govern electrical work within the city whether or not specifically stated in the code adopted by section 10-87 of this article and where any conflict may exist now or in the future, this section shall supersede said code until such time as it may be amended by action of the city council:

- (1) In cases of installation in construction of new buildings, the multibreaker panel shall be of sufficient size to leave a minimum of four spare circuits upon completion. Pull wires must be installed through separate or individual holes in both the multibreaker enclosure and ceiling plate, continuous from the inside of the enclosure to an accessible place.
- (2) The Standard Service Practices of Entergy Texas Inc. or any successor entity, current edition is hereby adopted as a standard for the installation of meters and metering devices, auxiliaries and appurtenances, and is made a part of this section as fully and to the same extent as if copied in full.

(Code 1966, § 7-14; Code 1995, § 10-88; Ord. No. 11122007-3, § 2, 11-12-2007; Ord. No. 20110613-3, § 2, 6-13-2011)

**Sec. 10-89. Wires not to interfere with fire department or fire escapes.**

No electric wire shall be installed, operated or maintained over any street, alley, sidewalk or building which shall be liable to seriously interfere 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 and, on complaint of the fire marshal, any such wire shall be removed or properly rearranged.

(Code 1966, § 7-15; Code 1995, § 10-89)

**Sec. 10-90. Location of gas pipe near electric wire.**

Any person desiring to place any gas pipe within six inches of any electric wire installed for use in connection with electric light, heat or power shall, before proceeding with the execution of the work, obtain from the electrical inspector permission therefor, and on completion of the work, such person shall notify the electrical inspector who shall inspect the work and cause all wires to be placed in a safe and secure condition.

(Code 1966, § 7-16; Code 1995, § 10-90)

**Sec. 10-91. Decision on questions not covered by article.**

The electrical inspector shall decide all questions not provided for in this article and pertaining to the installation, operation or maintenance of electric wiring and apparatus.

(Code 1966, § 7-17; Code 1995, § 10-91)

**Sec. 10-92. Article does not affect liability for damages.**

This article shall not be construed to relieve from or lessen the responsibility of any person installing, operating or controlling any electrical wiring or apparatus for damage to anyone injured thereby, nor, except as otherwise provided by law, shall the city be held or regarded as assuming any liability by reason of the

inspection authorized in this article or certificates or permits issued pursuant to the provisions of this article.  
(Code 1966, § 7-18; Code 1995, § 10-92)

**State Law References:** Liability of a municipality, V.T.C.A., Civil Practice and Remedies Code § 101.0215.

**Secs. 10-93--10-120. Reserved.**

## **ARTICLE IV.**

### **BUILDING NUMBERING**

#### **Sec. 10-121. 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:

*Commercial building.* Any building used in whole or in part for any trade, business, or for any commercial purpose, but the term "commercial building" shall not include any building used for residential or lodging purposes.

*Commercial unit.* The portion of any commercial building that is used by any corporation, partnership, association or sole proprietorship which does not occupy the entire building.

*Identifying number.* The address number assigned by the director of public works, or where no such number has been assigned by the director of public works, any number, letter, or number and letter combination which is distinct from any such number, letter or number and letter combination used on the same premises.

*Lodging unit.* Any room, other than one in a residential unit, which is generally used for sleeping purposes.  
(Ord. No. 2001514-1, § A, 5-14-2001)

#### **Sec. 10-122. Numbering required; posting; size, color, and design.**

Each residential unit, lodging unit and each commercial unit shall have an identifying number posted and maintained on or near the principal entrance to the unit or the curbside mailbox. The numbers shall be of adequate size (at least three inches in size), color and design to be clearly visible from the street.  
(Ord. No. 2001514-1, § B, 5-14-2001)

#### **Sec. 10-123. Compliance with section provisions; notice.**

(a) It shall be the responsibility of each owner of the property and of each person having control over the property to ensure that any number required to be posted and maintained on such property is so posted on such property at all times.

(b) Charges may be filed in municipal court for any violation of this section, upon proper complaint, under the following conditions:

(1) Written notice has been given the person charged by an officer or employee of the city, either by

hand-delivery or by certified mail, return receipt requested. Such notice shall inform the person that identifying numbers must be posted on each building, lodging, residential or commercial unit. The notice shall also set out the requirements for such numbers as specified in this section.

- (2) The person charged did not comply with the applicable provisions of this section within ten days of the date such person received notice pursuant to subsection (b)(1) of this section.

(Ord. No. 2001514-1, § C, 5-14-2001)

#### **Sec. 10-124. Penalty.**

Anyone violating this article shall be guilty of a misdemeanor and upon conviction shall be fined pursuant to the general penalty set out in section 1-10 of this Code.

(Ord. No. 2001514-1, § D, 5-14-2001)

#### **Secs. 10-125--10-140. Reserved.**

### **ARTICLE V.**

#### **DANGEROUS AND SUBSTANDARD BUILDINGS AND STRUCTURES**

#### **Sec. 10-141. Authority regarding substandard buildings.**

- (a) Unsafe buildings declared to be a nuisance.

- (1) It shall be unlawful for any person to maintain or permit the existence of any unsafe building in the city, and it shall be unlawful for any person to permit same to remain in such condition.

- (2) All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures provided in this article.

- (3) The city fire marshal shall enforce the provisions of this .

(b) It shall be the duty of the city fire marshal to inspect, or cause to be inspected, any structure located within the city's jurisdiction that may be:

- (1) Dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;

- (2) Regardless of its structural condition, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

- (3) Boarded up, fenced, or otherwise secured in any manner if:

- a. The building constitutes a danger to the public even though secured from entry; or

b. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (b) (2) of this section.

(c) If a structure is found to violate subsection (b) of this section, the city may require its vacation, relocation of occupants, securing, repair, removal, or demolition.

(d) Before taking any action under subsection (c) of this section, the city must hold a public hearing to determine whether a building violates city standards.

(e) Procedures for notice and hearing.

(1) The city shall personally deliver or send by certified mail, return receipt requested, to each identified owner, mortgagee and lienholder a notice of the hearing containing:

a. The date, time and place of the hearing;

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 technical building standards that is present at the building;

d. A statement that the city will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time; and

e. A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(2) The city shall make a diligent effort to discover each owner, mortgagee and lienholder prior to the hearing and give them a notice of and an opportunity to comment at the hearing. In addition, the city may file notice of the hearing in the official public records of real property in the county. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

(f) After the public hearing, if a building is found in violation of city standards, the city may order that the building be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this section. The city also may order that the occupants be relocated within a reasonable time if the owner does not take the ordered action within the allotted time.

(g) Within ten days after the date that the order is issued, the city shall:

- (1) File a copy of the order in the office of the city secretary or clerk; and
- (2) Publish in a newspaper of general circulation in the city in which the building is located a notice containing:
  - a. The street address or legal description of the property;
  - b. The date of the hearing;
  - c. A brief statement indicating the results of the order; and
  - d. Instructions stating where a complete copy of the order may be obtained.

(h) At the hearing authorized under this section, the city shall require the owner, lienholder, or mortgagee of the building to within 30 days:

- (1) Secure the building from unauthorized entry; or
- (2) Repair, remove, or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(i) If the city allows the owner, lienholder, or mortgagee more than 30 days to repair, remove, or demolish the building, the city shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.

(j) The owner, lienholder, or mortgagee shall not have more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder, or mortgagee:

- (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.

(k) If the city allows the owner, lienholder, or mortgagee more than 90 days to complete any part of the work required to repair, remove, or demolish the building, the city shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the city to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the hearing official or the hearing official's designee to demonstrate compliance with the time schedules. If the owner, lienholder, or mortgagee owns property, including structures or improvements on property, within the municipal boundaries that exceeds \$100,000.00 in total value, the city may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a building under this subsection. In lieu of a bond, the city may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty

from a third party approved by the city. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the city issues the order.

(l) In any public hearing to determine whether a building complies with the standards set out in an ordinance adopted under this section, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work.

(m) If the building is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the city may vacate, secure, remove, or demolish the building or relocate the occupants at its own expense. This subsection does not limit the ability of the city to collect on a bond or other financial guaranty that may be required by this article.

(n) If the city incurs expenses under this article, the city may assess the expenses on, and the city has a lien against, unless it is a homestead as protected by the state constitution, the property on which the building was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the building was located, the amount of expenses incurred by the city, and the balance due.

(o) If the notice is given and the opportunity to relocate the tenants of the building or to repair, remove, or demolish the building is afforded to each mortgagee and lienholder as authorized by this article, the lien is a privileged lien subordinate only to tax liens.

(p) A hearing under this section may be held by the city council, acting as the building commission.

(q) The city satisfies the requirements of this section to "make a diligent effort," "use its best efforts," or "make a reasonable effort" to determine the identity and address of an owner, a lienholder, or a mortgagee by searching the following records:

- (1) County real property records of the county in which the building is located;
- (2) Appraisal district records of the appraisal district in which the building is located;
- (3) Records of the secretary of state;
- (4) Assumed name records of the county in which the building is located;
- (5) Tax records of the city; and
- (6) Utility records of the city.

(r) When the city mails a notice in accordance with this section to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as refused or unclaimed, the validity of the

notice is not affected, and the notice is considered delivered.  
(Ord. No. 20050919, § 100, 9-19-2005; Ord. No. 20051114, § 100, 11-14-2005)

**Sec. 10-142. Seizure and sale of property to recover expenses.**

The city may foreclose a lien on property under this article:

- (1) 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.); or
- (2) In a judicial proceeding, if:
  - a. A building or other structure on the property has been demolished;
  - b. A lien for the cost of the demolition of the building or other structure on the property has been created and that cost has not been paid more than 180 days after the date the lien was filed; and
  - c. Ad valorem taxes are delinquent on all or part of the property.

(Ord. No. 20050919, § 104, 9-19-2005; Ord. No. 20051114, § 104, 11-14-2005)

**Sec. 10-143. Conflict with other sections of this code.**

If any authority given to the city by sections 10-141 and 10-142 should conflict with any other provision of this Code, the city may, at its discretion, act under either provision.  
(Ord. No. 20050919, § 105, 9-19-2005; Ord. No. 20051114, § 105, 11-14-2005)

**Sec. 10-144. Conflict with state law.**

If any provisions of this article are in conflict with provisions of the Texas Local Government Code or any other applicable statute, the provisions of that statute shall rule.  
(Ord. No. 20050919, § 106, 9-19-2005; Ord. No. 20051114, § 106, 11-14-2005)

**Secs. 10-145--10-160. Reserved.**

**ARTICLE VI.**

**MECHANICAL CODE\***

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\* **Editors Note:** Ord. No. 20110613-4, §§ 1--5, adopted June 13, 2011, repealed the former Art. VI, §§ 10-161--10-164, and enacted a new Art. VI as set out herein. The former Art. VI pertained to mechanical code and derived from Ord. No. 20060911-5, §§ 1--4, adopted 9-11-2006.

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**Sec. 10-161. International Mechanical Code adopted.**

A certain document, three copies of which are on file in the office of the city secretary of the city, being

marked and designated as the International Mechanical Code, 2006 edition as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Woodville, in the State of Texas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in section 10-162 of this article.  
(Ord. No. 20110613-4, § 1, 6-13-2011)

**Sec. 10-162. Amendments.**

The following sections are hereby revised:

Section 101.1. Insert: City of Woodville

Section 106.5.2. Insert: \$0.03 per square foot with a \$25.00 minimum plus applicable inspection fees.

Section 106.5.3. Insert: eighty (80), eighty (80)

Section 108.4. Insert: Class C Misdemeanor, five-hundred

Delete: or imprisonment not exceeding [NUMBER OF DAYS], or both such fine or imprisonment.

Section 108.5. Insert: fifty, five hundred  
(Ord. No. 20110613-4, § 2, 6-13-2011)

**Sec. 10-163. Conflicting ordinances.**

Any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.  
(Ord. No. 20110613-4, § 3, 6-13-2011)

**Sec. 10-164. Severability.**

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed this article, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.  
(Ord. No. 20110613-4, § 4, 6-13-2011)

**Sec. 10-165. Impending suits or court actions.**

Nothing in this article or in the mechanical code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action

acquired or existing, under any act or ordinance hereby repealed as cited in [section 10-163] of this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article. (Ord. No. 20110613-4, § 5, 6-13-2011)

**Secs. 10-166--10-180. Reserved.**

**ARTICLE VII.**

**RESIDENTIAL CODE\***

\* **Editors Note:** Ord. No. 20110613-6, §§ 1--5, adopted June 13, 2011, repealed the former Art. VII, §§ 10-181--10-184, and enacted a new Art. VII as set out herein. The former Art. VII pertained to residential code and derived from Ord. No. 20060911-4, §§ 1--4, 9-11-2006.

**Sec. 10-181. International Residential Code adopted.**

A certain document, three copies of which are on file in the office of the city secretary of the city, being marked and designated as the International Residential Code, 2006 edition, including Appendix Chapters A, B, C, and G (see International Residential Code Section R 102.5, 2006 edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Woodville, in the State of Texas for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in section 10-182 of this article. (Ord. No. 20110613-6, § 1, 6-13-2011)

**Sec. 10-182. Amendments.**

The following sections are hereby revised:

Section R101.1. Insert: City of Woodville

Table R301.2(1) Insert:

GROUND SNOW LOAD WIND SPEED <sup>d</sup> (mph) SEISMIC DESIGN CATEGORY <sup>f</sup>	SUBJECT TO DAMAGE FROM WINTER DESIGN TEMPERATURE <sup>e</sup> BARRIER UNDER-LAYMENT REQUIREMENTS <sup>h</sup> HAZARDous FREEZING INDEX <sup>i</sup> ANNUAL TEMPERATURE <sup>j</sup>									
Weathering <sup>g</sup>	Frost line Depth <sup>b</sup>	Termite <sup>c</sup>								

5 lbs./sq. ft.	100	0	N/A	N/A	Yes	26° F	N/A	As required	32° F	74° F
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Section P2603.6.1 Insert: 12 inches, 12 inches

Section P3103.1 Insert: 12 inches, 12 inches  
(Ord. No. 20110613-6, § 2, 6-13-2011)

**Sec. 10-183. Conflicting ordinances.**

Any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.  
(Ord. No. 20110613-6, § 3, 6-13-2011)

**Sec. 10-184. Severability.**

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed this article, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.  
(Ord. No. 20110613-6, § 4, 6-13-2011)

**Sec. 10-185. Impending suits or court actions.**

Nothing in this article or in the residential code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in [section 10-183] of this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.  
(Ord. No. 20110613-6, § 5, 6-13-2011)

**Secs. 10-186--10-199. Reserved.**

**ARTICLE VIII.**

**SIGNS**

**Sec. 10-200. Compliance with article; permits.**

No outdoor sign may be constructed or placed within the city limits and/or the extraterritorial jurisdiction of the City of Woodville, Texas, except with a permit issued by the city and in strict accordance with the provisions of this Code. In addition, all permitted signs shall be constructed in compliance with all utility and building codes adopted by the city, including, but not limited to, the building code, the mechanical code and the electrical code.  
(Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-201. Definitions.**

*Billboard* shall have the same meaning as "off-premises sign."

*Electronic sign* shall refer to any type of sign whose display is intended to be read by vehicular traffic, including those signs with light-emitting diode or digital display whose electronic message is either turned on and off intermittently, or whose illumination is not stationary or constant in intensity or color, or contains any type of scrolling or changing message, symbol or figure. Exterior or interior lighting placed only for the purpose of increasing visibility of a sign that does not flash or change its message shall not be included within this definition.

*On-premise sign* means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity. § 216.002(b) V.A.T.S.

*Off-premise sign* means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located (§ 216.002(c) V.A.T.S.).

*Sign* means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform (§ 216.002(1) V.A.T.S.).

(Ord. No. 20080908-4, § 1, 9-8-2008)

#### **Sec. 10-202. Prohibited signs.**

- (a) Abandoned or dilapidated signs.
- (b) Any sign that imitates any official, traffic, regulatory or emergency sign or purports to have official status.
- (c) Any sign that obstructs ingress to or egress from any building or fire lane.
- (d) Off-premises signs and/or billboards as shown in section 10-203 of this article.
- (d) Any and all private signs, displays, handbills, flyers, or similar notices regardless of content when placed in or projecting over a public right-of-way or on a utility pole within a right-of-way. Exempt from prohibition are bonafide civic advertisements and municipal holiday decorations.

Any signs failing to comply with this section shall be removed within ten days after notice by the city. Any such sign not removed after ten days shall be removed by the city and the cost of removal shall become a lien against the property until satisfied. In addition, the person or entity placing the sign may be charged with a violation of this article. If the person or entity placing the sign cannot be identified, it will be assumed that the person or entity appearing on the sign, or the owner of the premises on which the sign is located, shall be responsible for the sign and subject to enforcement.

(Ord. No. 20080908-4, § 1, 9-8-2008)

#### **Sec. 10-203. Off-premises signs not allowed.**

Off-premises signs and billboards shall not be allowed within the city after the date of the adoption of this article. Pursuant to V.T.C.A., Local Government Code § 216.001, et seq., off-premises signs existing before the date of this article may be removed at the discretion of the city in compliance with said Code. (Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-204. On-premises signs regulated.**

On-premises signs shall be regulated by the city in compliance with this article. In addition, no on-premises sign permitted or constructed after the date of the adoption of this article shall exceed 25 feet in height nor 81 square feet in message area.

(Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-205. Electronic signs regulated.**

(a) No off-premises electronic signs, as that term is hereinabove defined, shall be allowed in the city or its extra-territorial jurisdiction. No existing signs may be converted to electronic signs after the date of the adoption of this article.

(b) No on-premises electronic signs, as that term is hereinabove defined, shall be allowed in the city or its extra-territorial jurisdiction if such sign is designed, or coincidentally placed, so as to compete for the attention of passing motorists.

(Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-206. Signs exempted from regulation.**

(a) Traffic signs.

(b) Official or public notices or warnings required by federal, state or local law.

(c) Signs erected by a public utility company in compliance with its regulatory authority.

(d) Private signs located on residential property that do not otherwise violate this regulation.

(e) Holiday decorations containing no commercial message and are displayed only within the applicable holiday season.

(f) "No trespassing," "no loitering," "no parking" and similar signs not displaying a commercial message.

(g) Governmental signs.

(Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-207. Temporary signs.**

The following signs require no permit, however, they are subject to regulations as stated.

- (a) Banners and portable signs used only in conjunction with special business promotions. Banners must be removed at the end of the special promotion or 30 days, whichever comes first.
- (b) Garage sale signs, residential signs and political signs that are placed only on private property with the permission of the property owner. Said signs must be removed within three calendar days after the end of the event they advertise. No such signs may be placed within ten feet of a public right-of-way.
- (c) Real estate signs may be placed only on the property listed for sale, and must be removed within three calendar days after the expiration or cancellation of the listing or real estate closing of the sale of the property for which they advertise. In no event shall such sign or signs remain displayed more than 365 days. No such signs may be placed within ten feet of a public right-of-way.

(Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-208. Nonconforming signs.**

Signs lawfully erected in compliance with this article, or erected prior to the adoption of this article which fail to conform to the provisions of this section 10-207 are subject to action for removal by the city.

- (a) Any sign related to a use or business or activity that has ceased to exist.
- (b) Any sign that has fallen into disrepair or is unsightly or is not properly maintained. The city may permit routine repairs and maintenance of such nonconforming signs.
- (c) Notice shall be given to any owner or person responsible for any sign identified by the city as nonconforming by registered mail. The person so noticed shall have ten days after receipt of the notice to bring the sign into conformity, or face action by the city for removal.

(Ord. No. 20080908-4, § 1, 9-8-2008)

**Sec. 10-209. Violations.**

Any person or entity found to be in violation of this article shall be subject to the punishment provisions of sections 1-10 and 1-14 of this Code. Each day of continuing violation shall constitute a separate offense.

(Ord. No. 20080908-4, § 1, 9-8-2008)

**Secs. 10-210--10-220. Reserved.**

**ARTICLE IX.**

**FUEL GAS CODE\***

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\* **Editors Note:** Ord. No. 20110613-5, §§ 1--5, adopted June 13, 2011, did not specify manner of inclusion. Hence, to facilitate indexing, said provisions have been codified herein as Art. IX, §§ 10-221--10-225.

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**Sec. 10-221. International Fuel Gas adopted.**

A certain document, three copies of which are on file in the office of the city secretary of city, being marked and designated as the International Fuel Gas Code, 2006 edition, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Woodville, in the State of Texas for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in section 10-222 of this article.

(Ord. No. 20110613-5, § 1, 6-13-2011)

**Sec. 10-222. Amendments.**

The following sections are hereby revised:

Section 101.1. Insert: City of Woodville

Section 106.5.2. Insert: \$0.03 per square foot with a \$25.00 minimum plus applicable inspection fees.

Section 106.5.3. Insert: eighty (80), eighty (80)

Section 108.4. Insert: Class C Misdemeanor, five-hundred

Delete: or imprisonment not exceeding [NUMBER OF DAYS], or both such fine or imprisonment.

Section 108.5. Insert: fifty, five hundred

(Ord. No. 20110613-5, § 2, 6-13-2011)

**Sec. 10-223. Conflicting ordinances.**

Any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 20110613-5, § 3, 6-13-2011)

**Sec. 10-224. Severability.**

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed this article, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(Ord. No. 20110613-5, § 4, 6-13-2011)

**Sec. 10-225. Impending suits or court actions.**

Nothing in this article or in the fuel gas code hereby adopted shall be construed to affect any suit or

proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in [section 10-223] of this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article. (Ord. No. 20110613-5, § 5, 6-13-2011)

**Secs. 10-226--10-230. Reserved.**

## **ARTICLE X.**

### **FIRE CODE\***

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\* **Editors Note:** To facilitate indexing, the provisions of Ord. No. 20110613-7, §§ 1--5, adopted June 13, 2011, have been codified herein as Art. X, §§ 10-231--10-235. Ord. No. 20110613-7 supercedes the former Fire Code which derived from Ord. No. 20060710-2, §§ 1--4. See editor's note at Ch. 30, Art. V of this Code.

**Cross References:** Fire prevention and protection, ch. 30.

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#### **Sec. 10-231. International Fire Gas adopted.**

A certain document, three copies of which are on file in the office of the City Secretary of City of Woodville, being marked and designated as the International Fire Code, 2006 edition, including Appendix Chapters B, C and D (see International Fire Code Section 101.2.1, 2006 edition), as published by the International Code Council, be and is hereby adopted as the Fire Code of the City of Woodville, in the State of Texas regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fire code on file in the office of the city are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in section 10-222 of this article. (Ord. No. 20110613-7, § 1, 6-13-2011)

#### **Sec. 10-232. Amendments.**

The following sections are hereby revised:

Section 101.1 Insert: City of Woodville

Section 109.3. Insert: Class C Misdemeanor, five-hundred

Delete: or imprisonment not exceeding [NUMBER OF DAYS], or both such fine or imprisonment.

Section 111.4. Insert: fifty, five hundred

(Ord. No. 20110613-7, § 2, 6-13-2011)

#### **Sec. 10-233. Geographic limits.**

The geographic limits referred to in certain sections of the 2006 International Fire Code are hereby established as follows:

Section 3204.3.1.1 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): Within the Corporate Limits of the City of Woodville.

Section 3404.2.9.5.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): Within the Corporate Limits of the City of Woodville.

Section 3406.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): Within the Corporate Limits of the City of Woodville.

Section 3804.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): Within the Corporate Limits of the City of Woodville.

(Ord. No. 20110613-7, § 3, 6-13-2011)

**Sec. 10-234. Conflicting ordinances.**

Any and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 20110613-7, § 4, 6-13-2011)

**Sec. 10-235. Impending suits or court actions.**

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed this article, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(Ord. No. 20110613-7, § 5, 6-13-2011)

**Chapters 11--13**

**RESERVED**

## Chapter 14

### BUSINESSES\*

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\* **State Constitution References:** Local occupation taxes, art. VIII, § 1(f).

**State Law References:** Regulation of certain businesses by Type A municipality, Local Government Code § 215.021 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; weights and measures, V.T.C.A., Agriculture Code § 13.001 et seq.; municipal authority to regulate sexually oriented business, V.T.C.A., Local Government Code § 243.001 et seq.; deceptive business practices, V.T.C.A., Penal Code § 32.42.

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#### Article I. In General

Secs. 14-1--14-30. Reserved.

#### Article II. Peddlers, Solicitors and Canvassers

##### Division 1. Generally

Sec. 14-31. Definitions.

Sec. 14-32. Exception.

Sec. 14-33. Activities prohibited between certain hours.

Sec. 14-34. Purpose, construction of article.

Sec. 14-35. Use of public ways--Prohibited.

Sec. 14-36. Exemptions.

Secs. 14-37--14-55. Reserved.

##### Division 2. Identification Cards and License

Sec. 14-56. Identification cards.

Sec. 14-57. Identification card fees.

Sec. 14-58. Application for identification card.

Sec. 14-59. Application; contents.

Sec. 14-60. Issuance of identification card.

Sec. 14-61. Investigation.

Sec. 14-62. Identification cards from another city.

Sec. 14-63. Administrative revocation.

Sec. 14-64. Hearing on appeal; open to public.

Sec. 14-65. Display of identification card.

Sec. 14-66. Validity of identification card.

Sec. 14-67. Revocation of card.

Sec. 14-68. Business displaying "no soliciting" notice.

Sec. 14-69. Not to go on residential property uninvited.

Sec. 14-70. Carrying on person required.

Sec. 14-71. Term.

Secs. 14-72--14-80. Reserved.

##### Division 3. Temporary Businesses

Sec. 14-81. Operation of van, booth, table or other temporary facility for the sale of merchandise.

Sec. 14-82. Exemptions.

Sec. 14-83. Bond requirement.

Sec. 14-84. Permit revocation.

Sec. 14-85. Appeals.

Sec. 14-86. Penalties.

Secs. 14-87--14-99. Reserved.

#### Article III. Sexually Oriented Businesses

Sec. 14-100. Purpose and intent.  
Sec. 14-101. Definitions.  
Sec. 14-102. Classifications of sexually oriented businesses.  
Sec. 14-103. License required.  
Sec. 14-104. Issuance of license.  
Sec. 14-105. License fees for sexually oriented businesses.  
Sec. 14-106. Inspection.  
Sec. 14-107. Expiration of license.  
Sec. 14-108. Suspension.  
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Sec. 14-110. Appeal.  
Sec. 14-111. Transfer of license.  
Sec. 14-112. Location of sexually oriented business.  
Sec. 14-113. Exemptions from locational restrictions.  
Sec. 14-114. Additional regulations for escort agencies.  
Sec. 14-115. Additional regulations for nude model studios.  
Sec. 14-116. Additional regulations for adult theaters and adult motion picture theaters.  
Sec. 14-117. Additional regulations for adult motels.  
Sec. 14-118. Regulations pertaining to exhibition of sexually explicit films or videos.  
Sec. 14-119. Display of sexually explicit material to minors.  
Sec. 14-120. Enforcement.  
Sec. 14-121. Injunctive relief.

## ARTICLE I.

### IN GENERAL

Secs. 14-1--14-30. Reserved.

## ARTICLE II.

### PEDDLERS, SOLICITORS AND CANVASSERS\*

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\* **State Law References:** Type A municipality may regulate hawkers, peddlers, and pawnbrokers, V.T.C.A., Local Government Code § 215.031.

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### DIVISION 1.

#### GENERALLY

#### Sec. 14-31. Definitions.

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

*Canvasser* is a person who attempts to make personal contact with a person at that person's residence, without prior specific invitation or appointment, for the primary purpose of attempting to solicit support for or against a particular religion, philosophy, ideology, political party, candidate, issue, or ballot question, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause.

*Interstate commerce* means soliciting, selling, taking orders for, or offering to take orders for any goods,

wares, merchandise, photographs, magazines, or things which, at the time the order is taken, are in any federal district or territory, any commonwealth, or in any state other than Texas and shipped or introduced into the city in fulfillment of such orders.

*Itinerant vendor* means any individual, whether a resident of this city or not, who offers for sale food, beverages, goods, merchandise, delivery, or services to be performed immediately or in the future, from a certain location which is not within a building or structure for which a certificate of occupancy is required by the city. This term shall not apply to businesses that operate from within a building or structure within the city for which a certificate of occupancy is required but which display or sell food, beverages, goods, or merchandise, outside the building or structure. The term shall include itinerant merchant.

*Motor vehicle* means any vehicle used for displaying, storing, or transporting of articles for sale by an itinerant vendor which is required to be licensed and registered by the state department of motor vehicles. The term is to include trailers, trucks, and automobiles.

*Peddler* is a person who attempts to make personal contact with a person at that person's residence, without specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit; such a person is a "solicitor."

*Public way* means all areas legally open to public use, such as public streets, sidewalks, roadways, highways, parkways, alleys, parks, as well as the interior and areas surrounding public buildings.

*Solicitor* is a person who attempts to make personal contact with a person at that person's residence, without prior specific invitation or appointment from the resident, for the primary purpose of attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service.

*Special event* means any occasion including, but not limited to, fairs, shows, exhibitions, city wide celebrations, festivals, etc., within a specifically defined area of the city for a period of time established by the council.

(Ord. No. 20120212-1, 2-22-2012)

#### **Sec. 14-32. Exception.**

This article shall not apply to a federal, state or local government employee or a public utility employee in the performance of his duty for his employer.

#### **Sec. 14-33. Activities prohibited between certain hours.**

It shall be unlawful for any person to engage in any peddling or solicitation after the hour of 9:00 p.m. or before the hour of 7:00 a.m. on any day, whether such person is licensed under this article or not.

(Code 1966, § 12-2; Code 1995, § 14-32)

**Sec. 14-34. Purpose, construction of article.**

This entire article is and shall be deemed an exercise of the police power of the state and of the city for the public safety, comfort, convenience and protection of the city and citizens of the city, and all of the provisions of this article shall be construed for the accomplishment of that purpose.  
(Code 1966, § 12-3; Code 1995, § 14-33)

**Sec. 14-35. Use of public ways--Prohibited.**

It shall be unlawful for any peddler to engage in business within any public way within the city.  
(Ord. No. 20120212-1, 2-22-2012)

**Sec. 14-36. Exemptions.**

(a) Itinerant vendors may locate within a designated public way in connection with a special event approved by the city council and the appropriate body organizing and implementing the special event.

(b) Farmers may sell agricultural products that were raised or grown by them within a public way and time designated by the city council.

(c) Ice cream vehicles may use the public ways provided they do not remain in one location for longer than ten minutes.

(d) Peddlers may utilize streets and roads to travel from house to house or place to place in pursuit of their business.  
(Ord. No. 20120212-1, 2-22-2012)

**Secs. 14-37--14-55. Reserved.**

**DIVISION 2.**

**IDENTIFICATION CARDS AND LICENSE**

**Sec. 14-56. Identification cards.**

No person shall act as a peddler, solicitor, or itinerant vendor within the municipal limits without first obtaining an identification card in accordance with this article. A canvasser is not required to obtain an identification card, but any canvasser wanting a card for the purpose of reassuring municipal residents shall be issued one upon request.  
(Ord. No. 20120212-1, 2-22-2012)

**Sec. 14-57. Identification card fees.**

(a) For a peddler acting on behalf of a merchant otherwise licensed to do business within the municipality, no fee is required.

(b) For a peddler acting on behalf of a merchant not otherwise licensed to do business within the municipality, the peddler must pay a card fee in an amount as established from time to time by ordinance.

(c) For a solicitor, no fee is required.

(d) For a canvasser requesting a card, no fee is required.

**Sec. 14-58. Application for identification card.**

Any person or organization may apply for one or more identification cards by completing an application form at the office of the municipal clerk during regular office hours.

**Sec. 14-59. Application; contents.**

The applicant (person or organization) shall provide the following information:

(1) Name of applicant.

(2) Number of identification cards required.

(3) The name, physical description and recent photograph for each person for which a card is requested. In lieu of this information, a driver's license, state identification card, passport, or other government-issued identification card (issued by a government within the United States) containing this information may be provided, and a photocopy made and retained by the municipality. If a photograph is not supplied, the municipality will take an instant photograph of each person for which a card is requested at the application site. The cost of the instant photograph shall be paid by the applicant.

(4) The permanent and (if any) local address of the applicant.

(5) The permanent and (if any) local address of each person for whom a card is requested.

(6) A brief description of the proposed activity related to the identification card. Copies of literature or petitions may be substituted for this description at the option of the applicant.

(7) Date and place of birth for each person for whom a card is requested.

(8) A list of all infractions, offenses, misdemeanor and felony convictions of each person for whom a card is requested, for the seven years immediately prior to the application.

(9) The motor vehicle make, model, year, color, vehicle identification number, and state license plate number of any vehicle which will be used by each person for whom a card is requested.

(10) For a card requested for a peddler or itinerant vendor, the application must provide:

a. The name and permanent address of the business offering the goods, service, event or

activity;

- b. A copy of the business' state tax license; and
  - c. The location where books and records are kept of sales which occur within the municipality and which are available for government inspection to determine that all relevant taxes have been paid.
- (11) For a card required of a solicitor, the application must provide:
- a. The name and permanent address of the organization, group, or person for whom donations or proceeds are accepted;
  - b. The current website address (uniform resource locator) for the organization, group, or person where municipal residents having questions can go to on the World Wide Web or Internet for more information.
- (12) Any other information the applicant wishes to provide, such as copies of literature to be distributed, references to other municipalities where similar activities have occurred, etc.
- (13) It shall be unlawful for any peddler or itinerant vendor to engage in business within the city without having obtained and presented a sales tax permit issued by the State of Texas. Therefore, this information must be provided for issuance of an identification card. The following are exempt from having to present a sales tax permit:
- a. Farmers who sell agricultural products that were raised or grown by them.
  - b. Nonprofit organizations.
  - c. Any other business or activity exempt by the Texas State Comptroller from collecting a state sales tax.

(Ord. No. 20120212-1, 2-22-2012)

#### **Sec. 14-60. Issuance of identification card.**

Identification cards shall be issued promptly after application but in all cases within two business days of filing the application, unless it is determined within that time that:

- (1) The applicant has been convicted of a felony, or misdemeanor involving moral turpitude, within the past seven years;
- (2) With respect to a particular card, the individual for whom a card is requested has been convicted of a felony, or a misdemeanor involving moral turpitude, within the past seven years; or
- (3) Any statement within the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

**Sec. 14-61. Investigation.**

(a) During the time period following the application for one or more identification cards and the issuance thereof, the municipality may investigate as to the truth and accuracy of the information contained in the application. If the municipality has not completed this investigation within the required time period, the identification card nonetheless will be issued subject to administrative revocation upon completion of the investigation.

(b) If a canvasser requests an identification card, the investigation shall proceed. If the municipality refuses to issue the card, or revokes it after issuance, the canvasser shall be informed that the failure to obtain the card does not prevent him from canvassing the residents of the municipality.

**Sec. 14-62. Identification cards from another city.**

As an alternative to the application procedure, if an applicant can provide valid identification cards from another local government entity with a substantially similar application process, the issuing officer has discretion to immediately issue identification cards without the necessity of a formal application or investigation.

**Sec. 14-63. Administrative revocation.**

(a) If the issuing officer denies (or upon completion of an investigation revokes) the identification card for one or more persons he shall immediately convey the decision to the applicant orally and shall within two business days after the denial (or revocation) prepare a written report of the reason for the denial which shall be made available immediately to the applicant. Upon receipt of the oral notification, even before the preparation of the written report, the applicant at his option may appeal the denial (or revocation) to the municipal governing body.

(b) For an appeal, the municipal governing body shall hear the appeal at its next regular meeting, or if the next regular meeting is more than ten days from the denial of the application, the appeal shall be heard at a special meeting within that ten-day period. Due notice shall be provided to the public and the applicant.

**Sec. 14-64. Hearing on appeal; open to public.**

The hearing shall be subject to the Texas Open Meetings Law and Public Records Law.

**Sec. 14-65. Display of identification card.**

Each identification card, when the individual for whom the card was issued is acting as a peddler or solicitor, shall be worn on the outer clothing of the individual, so as to be reasonably visible to any person who might be approached by the cardholder.

**Sec. 14-66. Validity of identification card.**

An identification card shall be valid within the meaning of this article for a period of 90 days from its

date of issuance or the term requested, whichever is less.

**Sec. 14-67. Revocation of card.**

In addition to administrative revocation of an identification card, a card may be revoked for the following reasons:

- (1) Any violation of this article by applicant or by the person for whom the particular card was issued;
- (2) Fraud, misrepresentation, or incorrect statement made in the course of carrying on the activity;
- (3) Conviction of a felony, or misdemeanor involving moral turpitude, within the last seven years; or
- (4) Conducting the activity in such a manner as to constitute a breach of the peace, disorderly conduct, or menace to the health, safety or general welfare of the public.

**Sec. 14-68. Business displaying "no soliciting" notice.**

It shall be unlawful for any peddler, canvasser, solicitor or itinerant vendor to go to a business or commercial establishment for the purpose of taking orders or the selling of merchandise or services if the establishment has posted a sign which states "No Soliciting". This warning must be displayed prominently at the entrance to the business.

(Ord. No. 20120212-1, 2-22-2012)

**Editors Note:** Ord. No. 20120212-1, adopted Feb. 22, 2012, changed the title of § 14-68 from "no visit" list to business displaying "no soliciting" notice.

**Sec. 14-69. Not to go on residential property uninvited.**

It shall be unlawful for any peddler, canvasser, solicitor or itinerant vendor of merchandise or services to go on private residential property unless specifically requested or invited by the owner or occupant of such private residence.

(Ord. No. 20120212-1, 2-22-2012)

**Editors Note:** Ord. No. 20120212-1, adopted Feb. 22, 2012, changed the title of § 14-69 from general prohibitions to not to go on residential property uninvited.

**Sec. 14-70. Carrying on person required.**

It shall be unlawful for any person to engage in any peddling or soliciting activity described in section 14-31, unless he is carrying, on his person, a valid identification card issued under this division.

(Code 1966, § 12-19; Code 1995, § 14-60)

**Sec. 14-71. Term.**

Each identification card issued under this division shall be valid for a period of 90 days after the date of issuance, unless revoked.

(Code 1966, § 12-20; Code 1995, § 14-61)

**Secs. 14-72--14-80. Reserved.**

### **DIVISION 3.**

#### **TEMPORARY BUSINESSES**

##### **Sec. 14-81. Operation of van, booth, table or other temporary facility for the sale of merchandise.**

No person not having a fixed place of business within the city shall be permitted to sell or offer for sale or take orders for the sale of any merchandise from a van, booth, table or other temporary facility located upon private property unless that person has complied with the following requirements of the city:

Requirements for temporary merchants:

- (1) Obtain permission in writing to locate upon the premises from the owner of said premises and present same to city administration;
- (2) For sale of all items subject to sales tax (all non-food items), present a valid sales tax permit issued by the state comptroller;
- (3) If offering any prepared food or drinks, all persons must be holders of a current foodhandlers permit issued by the city health officer;
- (4) Pay a fee to the city for a temporary merchants' permit of \$120.00 per year, due each January 1, or pro-rated fee of \$10.00 a month for the remaining months left in that calendar year or the option of purchasing 30-day permit in lieu of the yearly permit at the rate of \$25.00;
- (5) If, in the judgment of the city administrator, a temporary merchant is offering for sale any item that could reasonably be classified as dangerous, harmful or injurious to a person or persons, the city administrator may require the merchant to provide evidence of product liability insurance or general liability insurance for the protection of the public;
- (6) If, in the judgment of the city administrator, a temporary merchant plans to offer for sale any product of which the quality or the suitability for the purposes offered is in any way questionable, the city administrator, in his or her sole discretion, may require the merchant to provide additional information and submit to a background check by the city police department. Based on these findings, the city administrator may deny such permit.

(Code 1995, § 14-81; Ord. No. 20080114, § 1, 1-14-2008; Ord. No. 20120212-1, 2-22-2012)

**Editors Note:** Ord. No. 20080114, § 1, adopted January 14, 2008, changed the title of § 14-81 from "Operation of booth, van, table or other facility for sale of goods, wares, merchandise."

##### **Sec. 14-82. Exemptions.**

(a) Farmers offering agricultural products produced by themselves or on property they operate for agricultural purposes are exempt from the provisions of section 14-81 except that they must obtain permission in writing from the owner of any location where they choose to offer their goods for sale and shall produce said

written permission upon inquiry of any police officer or employee of the city.

(b) Vendors participating in short-term events sponsored by any civic, charitable, religious, educational or social organization within the city shall not be required to obtain a permit however any such vendor offering for sale any food item(s) shall be subject to inspection by the city health officer. (Ord. No. 20080114, § 2, 1-14-2008)

**Sec. 14-83. Bond requirement.**

(a) There is a bond requirement for all solicitors requiring cash deposits or payment for future delivery or who require a contract of agreement to finance the sale of goods or services for future delivery, or for services to be performed in the future, shall furnish to the city a bond with the application in the amount listed below. This bond is to be signed by the applicant and surety company authorized to do business in the State of Texas, conditioned:

- (1) For the final delivery of goods or services in accordance with the terms or any order obtained;
- (2) To indemnify purchasers for defects in material or workmanship that may exist in the goods sold and that are discovered within 30 days after delivery; and;
- (3) For the use and benefit of persons, firms, or corporations that may make a purchase or give an order to the principal of the bond or to the agent or employee of the principal of the bond.

(b) If the applicant is a person, firm, or corporation engaging in solicitation activities through one or more agents or employees, only one bond is required for the activities of all the agents or employee solicitors.

(1) The amount of the bond is determined by the number of solicitors acting as agents or employees of the same person, firm, or corporation with a \$1,000.00 bond to be posted for each such person. (Ord. No. 20120212-1, 2-22-2012)

**Sec. 14-84. Permit revocation.**

After the registration provided for in this article has been issued, the city administrator of the city or his/her duly authorized representative may revoke such registration if it is found that:

- (a) The registration was obtained by false representation;
- (b) The holder of the registration has violated any ordinance of the city, or any law of the state in connection with any soliciting by such holder or in connection with the collecting or attempted collection of any account due to such registration holder or his employer or in connection with the repossession or attempted repossession of goods sold;
- (c) The holder of the registration is convicted of a felony, misdemeanor within the last seven years, or convicted of a felony, misdemeanor involving a sexual offense,
- (d) If the holder of registration has endangered the health or safety of a citizen of the city or has

violated any city ordinance.  
(Ord. No. 20120212-1, 2-22-2012)

**Sec. 14-85. Appeals.**

If the applicant for a permit under this section or the holder of such permit is dissatisfied with any holding or finding of the city secretary, he or she shall have the right to appeal to the city council by filing a written notice of such appeal with the city secretary within ten days from the making and filing of such decision by the city secretary. Upon filing of such notice of appeal, the application for the permit and all papers possessed by the city secretary in connection with such application and such permit shall be delivered to the city council. And such matter as may be in controversy shall be heard by the council at its next available meeting after the filing of the notice of appeal.  
(Ord. No. 20120212-1, 2-22-2012)

**Sec. 14-86. Penalties.**

Any person, firm, or corporation violating any provision of this article or failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$100.00 nor more than \$500.00 and each day or fraction of a day during which this article or any part thereof is further violated shall be deemed a separate offense and punishable as such.  
(Ord. No. 20120212-1, 2-22-2012)

**Secs. 14-87--14-99. Reserved.**

**ARTICLE III.**

**SEXUALLY ORIENTED BUSINESSES\***

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\* **State Law References:** Municipal authority to regulate sexually oriented businesses, V.T.C.A., Local Government Code, § 243.001 et seq.

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**Sec. 14-100. Purpose and intent.**

(a) It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the locational regulations of section 14-112 of this article are promulgated pursuant to V.T.C.A., Local Government Code ch. 243.  
(Code 1995, § 14-100; Ord. of 11-8-1999)

**Sec. 14-101. 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 electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore or adult video store* means a commercial establishment that as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

*Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity or semi-nudity, including topless dancers, nude dancers or strippers, male or female;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions that 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 that:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that 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 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, video cassettes, slides, or similar photographic reproductions are shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment that 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.

*Child care facility* means a building used as a day nursery, children's boarding home, child placement agency, religious or charitable encampment for children or any other place for the care or custody of children under 16 years of age.

*Church* 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.

*City administrator* means the City of Woodville city administrator or his designated agent.

*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.

*Escort agency* means a person who, or business association that, furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes, for a fee, tip, or other consideration.

*Establishment* means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business;  
or
- (4) The relocation of any sexually oriented business.

*Licensee* means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

*Nude model studio* means any place where a person who appears in a state of nudity or semi-nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

*Nudity* or a *state of nudity* means:

- (1) The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast;

or

- (2) A state of dress that fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

*Operates or causes to be operated* means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

*Person* means an individual, proprietorship, partnership, corporation, association or other legal entity.

*Residential district* means a single-family, duplex, townhouse, multiple family or mobile home district or area so designated by such uses.

*Residential use* means property used for single-family, duplex, multiple family, mobile home park, mobile home subdivision, or campground purposes.

*School* means any public or private learning center, elementary school, secondary school, junior college, community college, college, university or other center for post-secondary education.

*Semi-nude* means a state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breasts, as well as portions of the body covered by supporting straps or devices.

*Sexual encounter center* means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

*Sexually oriented business* means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

*Specified anatomical areas* means 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 (1) through (3) of this definition.

*Substantial enlargement* of a sexually oriented business means the increase in floor area occupied by the business by more than 20 percent as the floor area existed on the date of the enactment of this article.

*Transfer of ownership or control* of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities that 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 that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Code 1995, § 14-101; Ord. of 11-8-1999)

#### **Sec. 14-102. Classifications of sexually oriented businesses.**

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

(Code 1995, § 14-102; Ord. of 11-8-1999)

#### **Sec. 14-103. License required.**

- (a) A person commits an offense if he operates a sexually oriented business without a valid license

issued by the city for the particular type of business.

(b) An application for a license must be made on a form provided by the city administrator. The application form shall be sworn to and shall:

- (1) Include the name and address of the applicant;
- (2) State whether the applicant meets each of the requirements set forth in section 14-104;
- (3) Include the name and address of each person required to sign the application pursuant to section 14-103(d), and the name, address and type of entity, if applicable, of each person or entity that owns or controls an interest in the business to be licensed; and
- (4) Such other matters, consistent with this article, as may be specified in the application form.

The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with section 14-118 must submit a diagram meeting the requirements of section 14-118.

(c) The applicant must be qualified according to the provisions of this article and the premises must be inspected and found to be in compliance with the law by the city administrator.

(d) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under section 14-104 of this article and each applicant shall be considered a licensee if a license is granted.

(Code 1995, § 14-103; Ord. of 11-8-1999)

#### **Sec. 14-104. Issuance of license.**

(a) The city administrator shall approve the issuance of a license to an applicant within 30 days after receipt of an application unless the city administrator finds one or more of the following to be true:

- (1) An applicant is under 18 years of age.
- (2) An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this

article other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

- (5) The license fee required by this article has not been paid.
- (6) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding 12 months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- (7) An applicant or the proposed establishment is in violation of or is not in compliance with section 14-106, 14-111, 14-112, 14-114, 14-115, 14-116, 14-117, 14-118, or 14-119.
- (8) The premises to be used for the sexually oriented business are not in compliance with all applicable city laws, regulations and city council ordinances.
- (9) An applicant or an applicant's spouse has been convicted of a crime:
  - a. Involving:
    1. Any of the following offenses as described in V.T.C.A., Penal Code ch. 43:
      - i. Prostitution;
      - ii. Promotion of prostitution;
      - iii. Aggravated promotion of prostitution;
      - iv. Compelling prostitution;
      - v. Obscenity;
      - vi. Sale, distribution, or display of harmful material to a minor;
      - vii. Sexual performance by a child;
      - viii. Employment harmful to children; or
      - ix. Possession or promotion 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 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) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(Code 1995, § 14-104; Ord. of 11-8-1999)

#### **Sec. 14-105. License fees for sexually oriented businesses.**

The annual license fee for a sexually oriented business shall be \$1,500.00.

(Code 1995, § 14-105; Ord. of 11-8-1999)

#### **Sec. 14-106. Inspection.**

(a) An applicant or licensee shall permit representatives of the police department and the city administrator 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 police department and/or the city administrator at any time it is occupied or open for business.

(c) The provisions of this section do not apply to areas of a sexually oriented business where adult movies are currently being rented by a customer for use at a permanent or temporary habitation.  
(Code 1995, § 14-106; Ord. of 11-8-1999)

#### **Sec. 14-107. 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 14-103. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(Code 1995, § 14-107; Ord. of 11-8-1999)

#### **Sec. 14-108. Suspension.**

The city administrator shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an agent or employee of a licensee has:

- (1) Violated or is not in compliance with section 14-106, 14-111, 14-112, 14-114, 14-115, 14-116, 14-117, 14-118, or 14-119;
- (2) Engaged in 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 1995, § 14-108; Ord. of 11-8-1999)

#### **Sec. 14-109. Revocation.**

(a) The city administrator shall revoke a license if a cause of suspension in section 14-108 occurs and the license has been suspended within the preceding 12 months.

(b) The city administrator shall revoke a license if he determines that:

- (1) A licensee gave false or misleading information in the material submitted to the city administrator during the application process;

- (2) A licensee, an agent or an employee has knowingly allowed possession, use or sale of a controlled substance on the premises;
  - (3) A licensee, an agent or an employee has knowingly allowed prostitution on the premises;
  - (4) A licensee, an agent 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 14-104(a)(9)a for which the time period required in section 14-104(a)(9)b has not elapsed;
  - (6) On two or more occasions within a 12-month period, a person or persons committed an offense, occurring in or on the licensed premises, of a crime listed in section 14-104(a)(9)a for which a conviction has been obtained, and the person or persons were agents or employees of the sexually oriented business at the time the offenses were committed;
  - (7) A licensee or an agent or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in V.T.C.A., Penal Code § 21.01; or
  - (8) A licensee is delinquent in payment to the city for any ad valorem taxes, sales or other taxes related to the sexually oriented business.
- (c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
  - (d) Subsection (b)(7) of this section does not apply to adult motels as a ground for revoking the license unless the licensee, agent 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 city administrator 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 the revocation the violation 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, applicant may not be granted another license until the appropriate number of years required under section 14-104(a)(9)b has elapsed.  
(Code 1995, § 14-109; Ord. of 11-8-1999)

### **Sec. 14-110. Appeal.**

If the city administrator denies the issuance of a license, or suspends or revokes a license, the city administrator shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of written notice of the denial, suspension, or revocation the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the state district court. An appeal to the state district court must be filed within 30 days after the receipt of notice of the city administrator. The licensee shall bear the burden of proof in court.

(Code 1995, § 14-110; Ord. of 11-8-1999)

**Sec. 14-111. Transfer of license.**

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Code 1995, § 14-111; Ord. of 11-8-1999)

**Sec. 14-112. Location of sexually oriented business.**

(a) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 1,500 feet of:

- (1) A church;
- (2) A school;
- (3) A child care facility;
- (4) A boundary of a residential district;
- (5) A public park;
- (6) The property line of a lot devoted to residential use; or
- (7) Any building or structure in which alcoholic beverages are offered for sale.

(b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business located within 1,500 feet of another sexually oriented business.

(c) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(d) For the purpose of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, school, child care facility or building or structure in which alcoholic beverages are offered for sale, or to the nearest boundary of affected public park, residential district, or residential lot.

(e) For the purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(f) Any sexually oriented business lawfully operating on the effective date of this article that is in violation of subsection (a), (b), or (c) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 12 months unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,500 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(g) A sexually oriented business lawfully operated as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, school, child care facility, public park, residential district, or residential lot, or any building or structure in which alcoholic beverages are offered for sale, within 1,500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

(Code 1995, § 14-112; Ord. of 11-8-1999)

### **Sec. 14-113. Exemptions from locational restrictions.**

(a) If the city administrator denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of any section of this article, then the applicant may not later than ten calendar days after receiving notice of the denial, file with the city administrator a written request for an exemption from the locational restrictions of this article.

(b) If the written request is filed with the city administrator within the ten-day limit, the city council shall consider the request. The city administrator shall set a date for a public hearing within 60 days from the date the written request is received.

(c) A hearing by the city council may proceed if a quorum of the city council is present. The city council shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The city council may in its discretion, grant an exemption from the locational restrictions of this article if it makes the following findings:

- (1) That the location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
- (2) That the granting of the exemption will not violate the spirit and intent of this article;
- (3) That the location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban or rural blight;
- (4) That the location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban

restoration; and

(5) That all other applicable provisions of this article will be observed.

(e) The city council shall grant or deny the exemption by a majority vote. Failure to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the city council is final.

(f) If the city council grants the exemption, the exemption is valid for one year from the date of the city council's action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of this article until the applicant applies for and receives another exemption.

(g) If the city council denies the exemption, the applicant may not reapply for an exemption until at least 12 months have elapsed since the date of the city council's action.

(h) The grant of an exemption does not exempt the applicant from any other provisions of this article other than the locational restrictions.

(Code 1995, § 14-113; Ord. of 11-8-1999)

#### **Sec. 14-114. Additional regulations for escort agencies.**

(a) An escort agency shall not employ any person under the age of 18 years.

(b) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Code 1995, § 14-114; Ord. of 11-8-1999)

#### **Sec. 14-115. Additional regulations for nude model studios.**

(a) A nude model studio shall not employ any person under the age of 18 years.

(b) A person under the age of 18 years commits an offense if he appears in a state of nudity or semi-nudity in or on the premises of a nude model studio. It is a defense to prosecution under this section if the person under 18 years was in a restroom not open to the public view or to persons of the opposite sex.

(c) A person commits an offense if he appears in a state of nudity or semi-nudity or knowingly allows another to appear in a state of nudity or semi-nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Code 1995, § 14-115; Ord. of 11-8-1999)

#### **Sec. 14-116. Additional regulations for adult theaters and adult motion picture theaters.**

(a) A person commits an offense if he knowingly allows a person under the age of 18 years to

appear in a state of nudity or semi-nudity in or on the premises of an adult theater or adult motion picture theater.

(b) A person under the age of 18 years commits an offense if he knowingly appears in a state of nudity or semi-nudity in or on the premises of an adult theater or adult motion picture theater.

(c) It is a defense to prosecution under subsections (a) and (b) of this section if the person under 18 years was in a restroom not open to the public view or to persons of the opposite sex.  
(Code 1995, § 14-116; Ord. of 11-8-1999)

#### **Sec. 14-117. Additional regulations for adult motels.**

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he rents or subrents a sleeping room to a person and, within ten hours from the time the room is rented he rents or subrents the same room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.  
(Code 1995, § 14-117; Ord. of 11-8-1999)

#### **Sec. 14-118. 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, video cassette, 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, the location of all overhead lighting fixtures, and switches and designating any portion of the premises in which patrons not be permitted. Only agents or employees shall have access to light switches. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The city administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that configuration for 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 city administrator.
- (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 have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (6) It shall be the duty of the owners and operator, and it also shall be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (a)(5) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section.
- (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at the floor level.
- (8) It shall be the duty of the owners and operator and it also shall 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 on the premises.

(b) A person having a duty under subsections (a)(1) through (a)(8), of this section, commits an offense if he knowingly fails to fulfill that duty.  
(Code 1995, § 14-118; Ord. of 11-8-1999)

#### **Sec. 14-119. Display of sexually explicit material to minors.**

(a) A person commits an offense if in a business establishment open to persons under the age of 17 years, he displays a book, pamphlet, newspaper, magazine, film, or video cassette, 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" means to locate an item in such a manner that, without obtaining assistance from an agent or employee of the business establishment:

(1) It is available to the general public for handling and inspection; or

(2) The cover, outside packaging on the item or contents of the item is visible to members of the general public.

(Code 1995, § 14-119; Ord. of 11-8-1999)

### **Sec. 14-120. Enforcement.**

(a) Except as provided by subsection (b) of this section, any person violating section 14-112 upon conviction, is punishable by a fine not to exceed \$2,000.00 for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

(b) If the sexually oriented business involved is a nude model studio or sexual encounter center, then violation of section 14-103(a) or section 14-112 is punishable as a class A misdemeanor.

(c) Except as provided by subsection (b) of this section, above, any person violating a provision of this article other than section 14-112, upon conviction, is punishable by a fine not to exceed \$2,000.00 for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

(d) It is a defense to prosecution under section 14-103(a), 14-112 or 14-115(d) that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

(1) By a proprietary school licensed by the state; a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

b. Where in order to participate in a class a student must enroll at least three days in advance of the class; and

c. Where no more than one nude or semi-nude model is on the premises at one time.

(e) It is a defense to prosecution under section 14-103(a) or 14-112 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 1995, § 14-120; Ord. of 11-8-1999)

**Sec. 14-121. Injunctive relief.**

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of section 14-112 of this article is subject to a suit for injunction as well as prosecution for criminal violations.  
(Code 1995, § 14-121; Ord. of 11-8-1999)

**Chapters 15--17**

**RESERVED**

## Chapter 18

### CIVIL EMERGENCIES\*

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\* **State Law References:** Emergency management, V.T.C.A., Government Code § 418.001 et seq.; municipal programs, V.T.C.A., Government Code § 418.103; local and interjurisdictional emergency management, V.T.C.A., Government Code § 418.101 et seq.; false alarm or report, V.T.C.A., Penal Code § 42.06; powers of mayor during riot or unlawful assembly, V.T.C.A., Local Government Code § 22.042(e); power of mayor to summon special police force, V.T.C.A., Local Government Code § 341.011; 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).

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#### Article I. In General

Secs. 18-1--18-30. Reserved.

#### Article II. Emergency Management

Sec. 18-31. Organization.

Sec. 18-32. Powers, duties of emergency management director.

Sec. 18-33. Emergency management plan.

Sec. 18-34. Interjurisdictional program.

Sec. 18-35. Override of existing ordinances, rules, regulations.

Sec. 18-36. Liability.

Sec. 18-37. Commitment of funds.

Sec. 18-38. Limitations on authority.

Sec. 18-39. Offenses; penalties.

### ARTICLE I.

#### IN GENERAL

Secs. 18-1--18-30. Reserved.

### ARTICLE II.

#### EMERGENCY MANAGEMENT

**Sec. 18-31. Organization.**

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

(b) *Coordinator.* An emergency management coordinator may be appointed by and serve at the pleasure of the director.

(c) *Responsibilities of director.* The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this article. He may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for

the execution shall remain with the director.

(d) *Members; functions and duties.* The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

(Code 1995, § 18-31; Ord. No. 89-3, § 1, 8-14-1989; Ord. No. 20021208, § 1, 12-8-2002)

**State Law References:** Local emergency management, V.T.C.A., Government Code § 418.101 et seq.

### **Sec. 18-32. Powers, duties of emergency management director.**

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

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

representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county, for the countywide coordination of emergency management efforts.

- (10) Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.
- (12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for in this article.
- (13) Other requirements as specified in the Texas Disaster Act of 1975 (V.T.C.A., Government Code ch. 418).

(Code 1995, § 18-32; Ord. No. 89-3, § 2, 8-14-1989; Ord. No. 20021208, § 2, 12-8-2002)

**State Law References:** County programs, V.T.C.A., Government Code § 418.102; local emergency management plans, V.T.C.A., Government Code § 418.106; declaration of local disaster, V.T.C.A., Government Code § 418.108; mutual aid, V.T.C.A., Government Code § 418.109.

### **Sec. 18-33. Emergency management plan.**

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

(b) The plan must provide for:

- (1) Wage, price and rent controls and other economic stabilization methods in the event of a disaster.
- (2) Curfews, blockades and limitations on utility use in an area affected by a disaster, rules governing entrance to and exit from the affected area, and other security measures.

(Code 1995, § 18-33; Ord. No. 89-3, § 3, 8-14-1989; Ord. No. 20021208, § 3, 12-8-2002)

**State Law References:** Local emergency management plans, V.T.C.A., Government Code § 418.106.

### **Sec. 18-34. Interjurisdictional program.**

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 the program may affect the city.

(Code 1995, § 18-34; Ord. No. 89-3, § 4, 8-14-1989)

**State Law References:** Interjurisdictional programs, V.T.C.A., Government Code § 418.104.

### **Sec. 18-35. Override of existing ordinances, rules, regulations.**

At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(Code 1995, § 18-35; Ord. No. 89-3, § 5, 8-14-1989)

### **Sec. 18-36. Liability.**

This article is an exercise by the city of its governmental functions for the protection of the public peace, health and safety, and except as otherwise provided by law, neither the city, the agents and representatives of the city nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of the activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license of privilege, or otherwise permits the city to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or manmade disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.

(Code 1995, § 18-36; Ord. No. 89-3, § 6, 8-14-1989; Ord. No. 20021208, § 6, 12-8-2002)

**State Law References:** Tort liability of governmental units, V.T.C.A., Civil Practice and Remedies Code § 101.021 et seq.

### **Sec. 18-37. Commitment of funds.**

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public funds of the city when deemed prudent and necessary for the protection of health, life or property.

(Code 1995, § 18-37; Ord. No. 89-3, § 7, 8-14-1989; Ord. No. 20021208, § 7, 12-8-2002)

**State Law References:** Local finance, V.T.C.A., Government Code § 418.107.

### **Sec. 18-38. Limitations on authority.**

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 1995, § 18-39; Ord. No. 89-3, § 10, 8-14-1989)

**Sec. 18-39. Offenses; penalties.**

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

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

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

(d) Convictions for violations of the provisions of this ordinance shall be punishable by fine not to exceed \$250.00.

(Ord. No. 20021208, § 8, 12-8-2002)

**Chapters 19--21**

**RESERVED**

## Chapter 22

### COURTS\*

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\* **State Law References:** Municipal court, V.T.C.A., Government Code ch. 29; court procedures, Vernon's Ann. C.C.P. art. 45.01 et seq.

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#### Article I. In General

Sec. 22-1. **Municipal court technology fund.**  
Sec. 22-2. **Municipal court building security fund.**  
Secs. 22-3--22-30. **Reserved.**

#### Article II. Municipal Court Administration and Operations

##### Division 1. Generally

Sec. 22-31. **Appointment, term of clerk.**  
Sec. 22-32. **Rules of practice and procedure.**  
Secs. 22-33--22-55. **Reserved.**

##### Division 2. Judge

Sec. 22-56. **Office created independent of other departments.**  
Sec. 22-57. **Appointment.**  
Sec. 22-58. **Qualifications.**  
Sec. 22-59. **Term of office; vacancy.**  
Sec. 22-60. **Compensation.**  
Sec. 22-61. **Powers and duties.**  
Sec. 22-62. **Removal.**  
Sec. 22-63. **Appointment of temporary municipal judge.**

## ARTICLE I.

### IN GENERAL

#### Sec. 22-1. **Municipal court technology fund.**

(a) *Fund creation.* There is hereby created a municipal court technology fund in accordance with subchapter A, chapter 102, Code of Criminal Procedure, article 102.0172. This fund shall be administered under the direction of the governing body of the city.

(b) *Fee assessed.* All defendants convicted in municipal court, for a misdemeanor offense committed on or after September 1, 1999, shall be required to pay a \$4.00 technology fee as a cost of court. A person is considered convicted for purposes of this section if a sentence is imposed on the person, the person is placed on community supervision, including deferred adjudication community supervision, or the court defers final disposition of the person's case. The municipal court clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.

(c) *Fund purposes.* The municipal court technology fund may be used only to finance the following

items when used for the purpose of technological enhancements for the municipal court of the city:

- (1) Computer systems;
- (2) Computer networks;
- (3) Computer hardware;
- (4) Computer software;
- (5) Imaging systems;
- (6) Electronic kiosks;
- (7) Electronic ticket writers;
- (8) Docket managing systems; and
- (9) Any other item or service permitted by law.

(Code 1995, § 22-1; Ord. No. 99-1, § I, 8-9-1999(2))

**Sec. 22-2. Municipal court building security fund.**

(a) There shall be levied and collected from a defendant convicted for a misdemeanor offense in the city municipal court a \$3.00 security fee as a cost of court.

(b) In this section, a person is considered convicted if:

- (1) A sentence is imposed on the person;
- (2) The person receives community supervision, including deferred adjudication; or
- (3) The court defers final disposition of the person's case.

(c) It shall be the duty of the court clerk to collect the costs for deposit in a fund to be known as the municipal court building security fund, which may be used only to finance the following items when used for the purpose of providing security services for buildings housing a municipal court:

- (1) The purchase or repair of x-ray machines and conveying systems;
- (2) Hand held metal detectors;
- (3) Walk through metal detectors;
- (4) Identification cards and systems;

- (5) Electronic locking and surveillance equipment;
- (6) Security personnel during times when they are providing appropriate security services;
- (7) Signage;
- (8) Confiscated weapon inventory and tracking systems; or
- (9) Locks, chains, or other security hardware.

(d) The municipal court building security fund shall be administered by or under direction of the city council.

(Ord. No. 20110314-02, 3-14-2011)

**Editors Note:** Ord. No. 20110314-02, adopted Mar. 14, 2011, enacted provisions which did not specify manner of inclusion. Hence, to facilitate indexing, said provisions have been codified herein as § 22-2.

**Secs. 22-3--22-30. Reserved.**

## **ARTICLE II.**

### **MUNICIPAL COURT ADMINISTRATION AND OPERATIONS**

#### **DIVISION 1.**

#### **GENERALLY**

**Sec. 22-31. Appointment, term of clerk.**

A clerk of the municipal court shall be appointed by the mayor by and with the consent of the city council. The term of office of the clerk shall run concurrently with that of the judge of the municipal court, and any vacancy in the office of clerk shall be filled by the mayor by and with the consent of city council for the unexpired term only. The municipal judge shall supervise the conduct of the clerk of the municipal court and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The clerk of the municipal court shall serve at the will of the city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified.

(Ord. No. 20041108-1, § 8 (22-31), 11-08-2004)

**State Law References:** Clerk of municipal court, V.T.C.A., Government Code § 29.010.

**Sec. 22-32. Rules of practice and procedure.**

The rules of practice and procedure in the municipal court shall be the same as the rules governing practice and procedure in the justice courts of the state under the laws of the state.

(Code 1966, § 6-2; Code 1995, § 22-32)

**State Law References:** Court procedures, Vernon's Ann. C.C.P. art. 45.01 et seq.

**Secs. 22-33--22-55. Reserved.**

## **DIVISION 2.**

### **JUDGE\***

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\* **State Law References:** Judge of municipal court, V.T.C.A., Government Code § 29.004 et seq.

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#### **Sec. 22-56. Office created independent of other departments.**

The office of judge of the municipal court is hereby created, such office to be independent of other city departments, the judge reporting directly to the mayor and city council.

(Code 1966, § 6-13; Code 1995, § 22-56)

#### **Sec. 22-57. Appointment.**

The office of judge of the municipal court shall be filled by appointment by the mayor and with the consent of city council. The mayor shall supervise the conduct of the municipal judge and shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The municipal judge shall be appointed for a term of office by the city council and serve at the will of city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified.

(Ord. No. 20041108-1, § 9 (22-57), 11-08-2004)

**State Law References:** Authority of council to provide for appointment of judge, V.T.C.A., Government Code § 29.004(b).

#### **Sec. 22-58. Qualifications.**

The judge shall be a resident of the city at least 18 years of age, of good character, who possesses such educational qualifications as may be necessary, in the judgment of the city council, to properly discharge his duties.

(Code 1995, § 22-58)

#### **Sec. 22-59. Term of office; vacancy.**

The term of office for the judge of the municipal court shall run concurrently with the term of the mayor. Any vacancy in the office of judge shall be filled by the mayor by and with the consent of the city council for the unexpired term only.

(Code 1966, § 6-15; Code 1995, § 22-59)

#### **Sec. 22-60. Compensation.**

The judge of the municipal court shall be paid an amount as provided from time to time by the city council.

(Code 1966, § 6-16; Code 1995, § 22-60)

#### **Sec. 22-61. Powers and duties.**

The judge of the municipal court shall preside over the municipal court and exercise the powers and

perform the duties prescribed by the laws of the state and by the city council.  
(Code 1966, § 6-17; Code 1995, § 22-61)

**Sec. 22-62. Removal.**

The judge of the municipal court shall be removed only for cause by the mayor by and with the consent of the city council.

(Code 1966, § 6-18; Code 1995, § 22-62)

**Sec. 22-63. Appointment of temporary municipal judge.**

(a) The mayor, with the consent of the city council, shall appoint a person or persons to act as temporary municipal judge of the City of Woodville in the event that the regular municipal judge is temporarily unable to act. Such appointment shall run concurrently with the appointment of the regular appointed municipal judge.

(b) The qualifications for such appointment shall be the same as those for the regular municipal judge, except that the temporary municipal judge need not be a resident of the city to qualify for his or her position.

(c) The term of office for the temporary municipal judge shall run concurrently with that of the regular municipal judge.

(d) The temporary municipal judge shall be paid an amount as provided from time to time by the city council.

(e) Subject to subsection (f) of this section, the temporary municipal judge shall preside over the municipal court and exercise the powers and perform the duties prescribed by the laws of the state and the city council.

(f) The temporary municipal judge may act only in the absence of the regular municipal judge, and perform only those functions as specifically directed by the regular municipal judge or if the regular municipal judge is unable to so direct, then by the mayor. Any conflict between the regular municipal judge and the temporary municipal judge shall be ruled in favor of the regular municipal judge. As used above, the term "absence" shall not be construed to mean those times when the regular municipal judge is merely absent from his or her office, but rather those times when, because of extenuating circumstances, the regular municipal judge is unable to perform his or her ordinary functions, i.e., illness, vacation, seminars, etc.

(g) The temporary municipal judge may be removed by the mayor with the consent of the city council at any time with or without cause and a new temporary municipal judge immediately be appointed without appeal.

(Ord. No. 20080714, § 1, 7-14-2008)

**Chapters 23--25**

**RESERVED**

## Chapter 26

### ENVIRONMENT\*

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\* **State Law References:** Power of Type A municipality to define and abate nuisance, V.T.C.A., Local Government Code § 217.002; municipal authority concerning stagnant water, V.T.C.A., Health and Safety Code § 342.001; municipal power concerning filth and other unwholesome matter, V.T.C.A., Health and Safety Code § 342.003; municipal power concerning weeds and other unsanitary matter, V.T.C.A., Health and Safety Code § 342.004; assessment of expenses and lien for abatement by municipality, V.T.C.A., Health and Safety Code § 342.007.

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**Sec. 26-1. Noise; use of amplifying devices.**

**Sec. 26-2. Engine brakes.**

#### **Sec. 26-1. Noise; use of amplifying devices.**

(a) It shall be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce the human voice or any other sound in such a way as to materially disturb a reasonable person, on any public street within the corporate limits of the city. It shall likewise be unlawful for any person to use or operate, or cause to be used or operated, any mechanical or electrical device, machine, apparatus or instrument to intensify or to amplify or to reproduce the human voice, or to produce, reproduce, intensify or amplify any other sound, in any building or on any premises in the city whereby the sound therefrom is cast directly upon the public streets or places or where such device is maintained and operated for advertising purposes or for the purpose of attracting the attention of the passing public, or which is so placed or operated that the sounds coming therefrom can be heard to the disturbance or inconvenience of travelers upon any street or public place, or of persons in neighboring premises.

(b) The purpose of subsection (a) of this section is to prevent any noise in, near or on any public street which is reasonably calculated to disturb the peace and good order of the neighborhood or of persons owning, using or occupying property adjacent to such public streets.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the city council may issue permits for the use of loudspeakers or other sound-amplifying devices.  
(Code 1966, § 13-5; Code 1995, § 26-1)

**State Law References:** Type A municipality may regulate certain noises, V.T.C.A., Local Government Code § 217.003(d); restricted regulation of sport shooting ranges, V.T.C.A., Local Government Code § 250.001.

#### **Sec. 26-2. Engine brakes.**

The use of engine brakes as a means of slowing or stopping a vehicle within the city is hereby deemed a violation of this Code punishable by a fine as determined by the municipal judge.  
(Ord. No. 20060814-2, § 1, 8-14-2006; Ord. No. 20061211-2, § 1, 12-11-2006)

## **Chapter 27**

### **OIL AND GAS WELLS**

#### **Article I. In General**

- Sec. 27-1. Compliance with chapter.**
- Sec. 27-2. Definitions.**
- Sec. 27-3. Well location.**
- Sec. 27-4. Appointment of oil and gas inspector.**
- Sec. 27-5. Wells below 20,000 feet prohibited.**
- Sec. 27-6. Premises to be kept clean and sanitary.**
- Sec. 27-7. Escape of waste matter onto adjoining property.**
- Sec. 27-8. Violation of laws or regulations.**
- Sec. 27-9. Penalties for violation.**
- Secs. 27-10--27-20. Reserved.**

#### **Article II. Permits**

- Sec. 27-21. Permit required.**
- Sec. 27-22. Application; filing fee; required information; indemnity.**
- Sec. 27-23. Bond.**
- Sec. 27-24. Insurance.**
- Sec. 27-25. Hearing.**
- Secs. 27-26--27-40. Reserved.**

#### **Article III. Rules**

- Sec. 27-41. Drilling operation, generally.**
- Sec. 27-42. Tank batteries.**
- Sec. 27-43. Pumps.**
- Sec. 27-44. Well jacks.**
- Sec. 27-45. Electric motors.**
- Sec. 27-46. Pits.**
- Sec. 27-47. Setting and cementing casing.**
- Sec. 27-48. Venting and flaring.**
- Sec. 27-49. Valves and blowout preventers.**
- Sec. 27-50. Disposal of salt water.**
- Sec. 27-51. Injection wells.**
- Sec. 27-52. Access routes.**
- Sec. 27-53. Abandonment and plugging.**
- Sec. 27-54. Inspection fee.**

### **ARTICLE I.**

#### **IN GENERAL**

##### **Sec. 27-1. Compliance with chapter.**

It is the purpose of this chapter to establish reasonable and uniform limitations, safeguards and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil, gas and other substances produced in association therewith within the jurisdictional limits of the city to protect the health, safety and general welfare of its citizens, minimize the potential impact to property and mineral rights of owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

No person, firm, corporation, or other business entity shall conduct oil and gas drilling or associated activity except within strict compliance with this chapter.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

### **Sec. 27-2. Definitions.**

For purposes of this chapter, the following definitions shall apply:

*Bond* shall mean a the surety bond required to be posted by a permittee.

*Lease* shall mean any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an operator or someone holding under it or him, but which, due to the fee royalty ownership, is developed and operated as a separate tract.

*Operator* means, for each well, the person listed on the state railroad commission form W-1 or form P-4 for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall be deemed an operator.

*Permit* shall mean the permit issued to the operator of an oil and gas drilling or related activity covered by this chapter.

*Permittee* shall mean the person [to] whom is issued a permit for the drilling and operation of a well under this chapter, and his or its administrators, executors, heirs, successors and assigns.

*Person* shall include both the singular and the plural, and shall mean and include any person, individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation or political subdivision whatsoever.

*Well* shall mean any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of producing and recovering any oil, gas, liquid or gaseous hydrocarbon, or any of them. This definition shall include not only new wells, but deepening any presently existing well to another zone and/or the reopening of any well previously plugged in accordance with state regulations.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

### **Sec. 27-3. Well location.**

(a) No well shall be drilled and no permit shall be issued for any well to be drilled at any location which is nearer than 300 feet from any residence or commercial building without the applicant having first secured the written permission of the owner or owners thereof.

(b) 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 no street or alley shall be blocked or encumbered or

closed in any drilling or production operation except by special permit by order of the city council, and then only temporarily.

(c) No well shall be drilled and no permit shall be issued for any well to be drilled within 300 feet of any fresh water well.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-4. Appointment of oil and gas inspector.**

The public works director of the city is hereby designated oil and gas inspector and shall enforce the provisions of this chapter.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-5. Wells below 20,000 feet prohibited.**

It shall be unlawful and an offense for any person to drill a well within the city limits to a true vertical depth in excess of 20,000 feet, and no drilling and operating permit shall be granted for any well to a true vertical depth in excess of 20,000 feet.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-6. Premises to be kept clean and sanitary.**

The premises shall be kept in a clean and sanitary condition, free from rubbish of every character to the satisfaction of the city health officer at all times drilling operations or reworking operations are being conducted, and as long thereafter as oil and/or gas is being produced therefrom.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-7. Escape of waste matter onto adjoining property.**

It shall be unlawful and an offense for any person to permit to escape any mud, water, oil, slush or other waste matter related to the drilling or operating of any oil or gas well onto any adjoining lots upon which the permittee does not have leases or other contractual rights to use the surface, or upon leases not owned by the permittee, or into the alleys, gutters or sewers of the city.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-8. Violation of laws or regulations.**

Any violation of the laws of the state or any rules, regulations or requirements of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining, or abandoning an oil or gas well or related appurtenances, equipment or facilities, or in reference to fire walls, fire protection, blowout protection, safety protection, or convenience of persons or property, shall also be a violation of this chapter and shall be punishable in accordance with the provisions hereof. Any violation of any city ordinance or regulation pertaining to the operations contemplated herein shall also be a violation of this chapter and may be punishable in accordance with the provisions hereof.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-9. Penalties for violation.**

It shall be unlawful and an offense for any person to violate or neglect to comply with any provision hereof irrespective of whether or not the verbiage of each section hereof contains the specific language that such violation or neglect is unlawful and is an offense. Any person who shall violate any of the provisions of this chapter, or any of the provisions of a drilling and operating permit issued pursuant hereto, or any condition of the bond filed by the permittee pursuant to this chapter, or who shall neglect to comply with the terms hereof, shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be fined in any sum not more than \$500.00; and the violation of each separate provision of this chapter, and of said permit, and of said bond, shall be considered a separate offense, and each day's violation of each separate provision thereof shall be considered a separate offense. In addition to the foregoing penalties, it is further provided that the city council, at any regular or special session thereof, may, provided ten-days notice has been given to the permittee that revocation is to be considered at such meeting, revoke or suspend any permit issued under this chapter and under which drilling or producing operations are being conducted in the event the permittee thereof has violated any provision of said permit, said bond, or this chapter. In the event the permit is revoked, the permittee may make application to the city council for a re-issuance of such permit, and the action of the council thereon shall be final.

(Ord. No. 20060814-1, § 1, 8-14-2006)

**Secs. 27-10--27-20. Reserved.**

**ARTICLE II.**

**PERMITS\***

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\* **Editors Note:** Ord. No. 20060814-1, § 1, adopted August 14, 2006, enacted provisions intended for use as article II, §§ 27-10--27-14. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as article II, §§ 27-21--27-25.

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**Sec. 27-21. Permit required.**

It shall be unlawful and an offense for any person acting either for himself or acting as agent, employee, independent contractor, or servant of any other person, to commence to drill, to actually drill, or to operate any well within the city limits or to work upon or assist in any way in the prosecution of operation of any such well, without a permit for the drilling and operation of such well having first been issued by the authority of the city council in accordance with the terms of this chapter. Such permit shall be non-transferable.

(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-22. Application; filing fee; required information; indemnity.**

Every application for a permit to drill and operate a well shall be in writing, signed by the applicant or by some person duly authorized to sign same on his behalf, and it shall be filed with the city secretary and be accompanied with a filing fee of \$1,000.00 in cash or cash equivalent. Each application shall request a permit to drill and operate one well only, and the said application shall include the following:

- (1) Date and time of application;

- (2) Name and address of the applicant;
- (3) Copy of railroad commission permit;
- (4) Proposed site of the well, including name of the fee owner, name of the lease owner, brief description of the land;
- (5) The type of derrick to be used;
- (6) The proposed depth of the well;
- (7) Drawing or plat showing location of the well and any structures within 300 feet;
- (8) Written permission from owners if well is within 300 feet;
- (9) Method of operation of the proposed well (injection or production).

The city council, within 30 days after the filing of the application for a permit to drill and operate a well, shall determine whether or not said application complies in all respects with the provisions of this chapter, and if it does, the city council shall then fix the amount of the principal of the bond and insurance as provided for herein.

Said permit shall contain and specify that the term of such permit shall be for a period of one year from the date of the permit and as long thereafter as the permittee is engaged in drilling operations with no cessations of such operations for more than 90 days, or if oil or gas is produced in commercial quantities from the well drilled pursuant to such permit.

Each permit issued under this chapter shall contain the following language:

Operator does hereby expressly release and discharge all claims, demands, actions, judgments and executions which it ever had, or now has or may have, or its assigns may have, or claim to have, against the city and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees created by, or arising out of, personal injuries known or unknown and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit.

The operator shall fully defend, protect, indemnify and hold harmless the city, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the city, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under a permit.

The operator agrees to indemnify and hold harmless the city, its departments, officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the city, its departments, officers, agents, servants, employees, successors, assigns, sponsors, or volunteers created by, or arising out of the acts or omissions of the city occurring on the drill site or operation site in the course and scope of inspecting and permitting said well, including, but not limited to, claims and damages arising in whole or in part from the negligence of the city occurring on the drill site or operation site in the course and scope of inspecting and permitting the well.

It is understood and agreed that the indemnity provided for in this section is an indemnity extended by the operator to indemnify and protect the city and/or its departments, officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from the consequences of the negligence of the city and/or its departments, officers, agents, servants, employees, successors, assigns, sponsors, or volunteers whether that negligence is the sole or contributing cause of the resultant injury, death and/or damage.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-23. Bond.**

A surety bond shall be filed with the city in an amount to be determined by the city council, but not to be less than \$500,000.00 Said bond to be executed by a reliable insurance company authorized to do business in the state, as surety, and with applicant as principal, running to the city for the benefit of the city and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this chapter in the drilling and operation of the well. Bond for additional wells by the same operator shall be at the discretion of the city council.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-24. Insurance.**

In addition to the bond, the permittee shall carry a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage with an insurance company authorized to do business in the state, naming the permittee and the city as insureds. Such policy or policies shall provide for the following minimum coverages and must be filed with the city before any permit hereinafter granted shall become effective:

- (1) Bodily injuries: \$1,000,000.00 for one person and \$1,000,000.00 for one accident;
- (2) Property damages: \$1,000,000.00

Permittee shall file with the city secretary certificates of such insurance as above stated, and shall obtain the written approval thereof by the city administrator, who shall act thereon within ten days from the date of such filing. Such insurance policy or policies shall not be canceled without written notice to the city secretary at least ten days prior to the effective date of such cancellation. In the event such insurance policy or policies are cancelled, the permit granted shall terminate and the permittee's rights to operate under such permit shall cease until the permittee files additional insurance, as provided herein.

(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-25. Hearing.**

Once an application has been filed with the city secretary and has been determined to be complete within the provisions of this chapter, the secretary shall give notice to the surface rights property owners adjacent to the proposed drilling site and location of the well not less than ten days prior to a hearing of the permit application. The hearing shall be before the city council and shall be scheduled not less than ten days nor more than 30 days from the date the application is certified by the secretary. At such hearing the council shall hear all evidence that it deems necessary in order to make an informed and equitable decision.

At the conclusion of the hearing, and after making such investigations as the council may deem proper or necessary under the circumstances, the permit application shall be either approved or denied.

The decision of the council shall be final and in making its decision it shall, in addition to other considerations, have the power and authority to refuse any permit to drill any well at any particular location within the city, where by reason of such particular location and the character and value of the permanent improvements already erected on or adjacent to the particular location in question, for school, hospital, park or civic purposes, where the drilling of such wells on such particular location might be injurious or be a disadvantage to the city or its inhabitants as a whole or to a substantial number of its inhabitants or would not promote orderly growth and development of the city.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Secs. 27-26--27-40. Reserved.**

**ARTICLE III.**

**RULES\***

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\* **Editors Note:** Ord. No. 20060814-1, § 1, adopted August 14, 2006, enacted provisions intended for use as article III, §§ 27-15--27-28. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as article III, §§ 27-41--27-54.

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**Sec. 27-41. Drilling operation, generally.**

If any permit is granted to drill or explore for oil and gas within the city's jurisdictional limits, the drilling contractor shall proceed with the drilling operations with the highest degree of care so as not to injure adjoining property or persons in any manner and shall keep the premises suitably fenced or guarded 24 hours a day in such manner as to avoid trespassing on the part of anyone, particularly children, during the drilling and exploratory operations. Upon the completion of drilling operations, all drilling mud shall be removed outside the city limits and the grounds around the well and the slush pits shall be immediately cleared of all drilling mud and/or salt water or water, and shall be made to conform in appearance to the lands in the neighborhood wherein such drilling operations are conducted.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-42. Tank batteries.**

If production is obtained and the oil storage tank battery is located within the city limits, the same shall be erected within the confines of an earthen or concrete wall designed in such a manner that the area inside the retention wall would retain the total volume of the tanks located therein and the same shall be completely enclosed by an eight foot high all metal wire fence sufficiently strong and close mesh construction with a three-strand barbed wire security extension on top that will not be penetrable by small children or domestic animals. All gates thereto shall be kept locked. In no event shall such battery be located nearer than a 200 foot radius from any residence, commercial structure or public building, unless the application contains a signed notarized release from the property owners within such 200 foot radius. Any flow lines on lease shall be buried a minimum of 24 inches.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-43. Pumps.**

No pumping unit used for the purpose of lifting oil shall be powered with any power other than electricity.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-44. Well jacks.**

Any well jack or unit operating within the city limits shall be kept clean, painted, in good repair and properly lubricated so they will be neat in appearance and operate quietly, and they shall be enclosed by a metal fence identical to the fence described in section 27-42. All access gates to said well jacks shall be locked.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-45. Electric motors.**

Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electric installations and equipment shall conform to the city ordinances and the appropriate national codes. Subject to the above, any internal combustion engines used by the operator shall be muffled.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-46. Pits.**

All slush pits, pits or other means of storing mud or water for use in drilling or reworking operations shall be constructed, dug or placed at the location and in the manner specified by the city public works director and with his consent having first been obtained. Any leakage therefrom, whether causing damage or not, shall be a violation of this chapter and shall be subject to fine or loss of permit or both.

(Ord. No. 20060814-1, § 1, 8-14-2006)

#### **Sec. 27-47. Setting and cementing casing.**

No well shall be drilled within the city limits without properly setting and cementing a sufficient amount of surface casing to properly protect fresh water sands which are now, or may be, a source of water supply for the area. The depth of such surface casing shall be in accordance with the recommendation of the state water development board and a letter of such recommendation by the water board for the area in question shall be

filed with the city by the operator.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-48. Venting and flaring.**

No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air within the city limits. Flaring of gas within such city limits, when necessary, shall be in accordance with railroad commission regulations.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-49. Valves and blowout preventers.**

In areas where pressure conditions are unknown, or are known to be high, a blowout preventer, control head, and other connections to keep the well under control at all times shall be installed as soon as the surface casing is set.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-50. Disposal of salt water.**

All operators conducting oil and gas production operations within the corporate limits of the city shall make adequate provisions for the disposal of salt water or any other mineralized waters or impurities which may be brought to the surface from the depths of the well. No salt water pits, vats, or other open storage of salt water shall be permitted within the city limits.

No salt water or other mineralized water of whatever nature shall be discharged into any surface drainage water course, whether it be a dry creek, a storm sewer, or a flowing creek or stream, nor upon the open ground within the city limits. All movement of salt water from within to without the city limits shall be in enclosed pipelines with no leakage or trucked for disposal.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-51. Injection wells.**

No water, gas, air or chemicals shall be injected into any oil well for the purpose of forcing oil out of the producing formation or for any other purpose without the prior written approval of the city public works director.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-52. Access routes.**

A vehicular access route to the site shall be established by the city public works director after consideration of all the circumstances, including, but not limited to, the existing width, load bearing capacity, and composition of all streets proposed to be included in the access route, residences, potential interference with pedestrians and bicycle traffic, the presence of effective traffic control, and the general character of the areas through which the proposed access route would pass. Access route from the public road or streets to the well location itself, following the issuance of the permit, shall be so constructed so as to be an all weather road using crushed or gravel rock materials as a minimum standard but which meets city specifications. The access road

must be kept in a smooth, drivable condition. Maintenance and repair of the streets used shall be the responsibility of the operator in accordance with city specifications. In dry conditions, any road creating dust must be watered frequently enough to mitigate the effects of said dust, but not less than once a day. Upon abandonment of any producing well the operator shall, at the city's option, at the operator's expense, remove the road and restore the surface of the ground to its original condition.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-53. Abandonment and plugging.**

All wells within the city limits which are not producing oil or gas on a regular basis, which is defined as not producing oil or gas in paying quantities or is not a commercial producer or has not produced oil or gas for 60 days without due cause shall be plugged and abandoned at the operator's expense. Upon the abandonment of any such well, the well shall be plugged within 72 hours of such abandonment in accordance with the applicable rules and regulations of the state railroad commission.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Sec. 27-54. Inspection fee.**

In addition to all other charges specifically provided for by this chapter, an inspection fee of \$500.00 per well is imposed against the owner and producer of each well. The inspection fee shall be the liability of the producer of oil and gas and shall be due and payable to the city on or before January 31 of each and every year. If the fee is not paid on or before such date it shall become delinquent and a penalty of five percent of the amount of the fee shall be added.  
(Ord. No. 20060814-1, § 1, 8-14-2006)

**Chapters 28, 29**

**RESERVED**

## Chapter 30

### FIRE PREVENTION AND PROTECTION\*

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\* **State Law References:** Municipal fire protection provisions for Type A municipalities, V.T.C.A., Local Government Code § 342.001 et seq.; motor vehicle liability coverage for firefighters, V.T.C.A., Local Government Code § 142.006; hazardous substances, V.T.C.A., Health and Safety Code § 501.001 et seq.; flammable liquids, V.T.C.A., Health and Safety Code § 753.001 et seq.; fire escapes, V.T.C.A., Health and Safety Code § 791.001 et seq.; commission on fire protection, V.T.C.A., Government Code § 419.001 et seq.; fire detection and alarm devices, V.A.T.S. Insurance Code, art. 5.43-2; fire protection sprinkler systems, V.A.T.S. Insurance Code, art. 5.43-3; fireworks, V.A.T.S. Insurance Code, art. 5.43-4; municipal fire protection, V.T.C.A., Local Government Code § 342.001 et seq.; liquefied petroleum gas, V.T.C.A., Natural Resources Code § 113.001 et seq.; arson, V.T.C.A., Penal Code § 28.02; county fire protection, V.T.C.A., Local Government Code § 352.001 et seq.; smoke detectors in hotels, V.T.C.A., Health and Safety Code § 792.001 et seq.; disabling fire exit alarms, V.T.C.A., Health and Safety Code § 793.001 et seq.; smoke detectors in residential tenancies, V.T.C.A., Property Code §§ 92.006, 92.251 et seq.

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#### Article I. In General

Sec. 30-1. False fire alarms.  
Sec. 30-2. Interference with firefighters, other officials proceeding to fire.  
Sec. 30-3. Arson reward.  
Secs. 30-4--30-30. Reserved.

#### Article II. Fire Marshal

Sec. 30-31. Office created.  
Sec. 30-32. Appointment.  
Sec. 30-33. Qualifications; removal.  
Sec. 30-34. Duty to investigate fires.  
Sec. 30-35. Taking of testimony.  
Sec. 30-36. Authority to summon witnesses, require production of documents.  
Sec. 30-37. Investigations may be private; sequestering witnesses.  
Sec. 30-38. Duty when evidence indicates crime in connection with fire.  
Sec. 30-39. Misconduct of witnesses summoned by fire marshal.  
Sec. 30-40. Inspection of premises; removal or repair of dangerous conditions.  
Sec. 30-41. Right of entry.  
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#### Article III. Transportation of Gasoline

Sec. 30-66. Maintenance of vehicles, containers, tanks.  
Sec. 30-67. Vehicles must be approved by state.  
Sec. 30-68. Parking or storing vehicles.  
Sec. 30-69. Transfer of gasoline from one vehicle to another.  
Sec. 30-70. Unloading at approved location only.  
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#### Article IV. Liquefied Petroleum Gas

##### Division 1. Generally

Sec. 30-91. Definitions.  
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##### Division 2. Transportation

Sec. 30-121. General requirements for vehicles, containers.

Sec. 30-122. Maintenance of vehicles, containers, tanks.  
Sec. 30-123. Vehicles must be approved by state.  
Sec. 30-124. Identification of vehicles.  
Sec. 30-125. Parking or storing vehicles.  
Sec. 30-126. Transfer of liquefied petroleum gas from one vehicle to another.  
Sec. 30-127. Unloading at approved location only.  
Secs. 30-128--30-140. Reserved.

Article V. Reserved

## ARTICLE I. IN GENERAL

### Sec. 30-1. False fire alarms.

No person shall knowingly give or make a false alarm of a fire within the corporate limits of the city.  
(Code 1966, § 8-1; Code 1995, § 30-1)

**State Law References:** False report of emergency, V.T.C.A., Penal Code § 42.06.

### Sec. 30-2. Interference with firefighters, other officials proceeding to fire.

It shall be unlawful for any person to interfere with or in any manner obstruct any firefighter or other city official proceeding to the scene or reported scene of any fire or to make it difficult or dangerous for any firefighter or other city official to proceed to the scene of a fire.

(Code 1966, § 8-2; Code 1995, § 30-2)

**State Law References:** Interference with public duties, V.T.C.A., Penal Code § 38.15.

### Sec. 30-3. Arson reward.

The city hereby offers a reward of \$250.00 or as set from time to time by the council for the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the city. This reward is a standing offer and shall be paid out of the general fund of the city.

(Code 1966, § 8-5; Code 1995, § 30-3)

**State Law References:** Arson, V.T.C.A., Penal Code § 28.02.

### Secs. 30-4--30-30. Reserved.

## ARTICLE II. FIRE MARSHAL\*

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\* **State Law References:** State fire marshal, V.T.C.A., Government Code ch. 417.

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### Sec. 30-31. Office created.

The office of the fire marshal is hereby created; such office shall be an arson investigation unit for the City of Woodville. Such office shall be independent of other city departments, the fire marshal reporting

directly to the mayor and the city council.  
(Code 1966, § 8-16; Code 1995, § 30-31; Amd. of 2-18-2002)

**Sec. 30-32. Appointment.**

The office of fire marshal shall be filled by appointment by the mayor, by and with the consent of the city council.  
(Code 1966, § 8-17; Code 1995, § 30-32)

**Sec. 30-33. Qualifications; removal.**

The fire marshal shall be qualified for the duties of his office and his conduct shall be supervised by the city administrator who shall cause any negligence, carelessness or violation of duty to be prosecuted and punished. The fire marshal shall serve at the will of the city council, shall receive such compensation as may be provided by the city council and shall hold office until his successor has been appointed or qualified.  
(Ord. No. 20041108-1, § 10 (30-33), 11-08-2004)

**Sec. 30-34. Duty to investigate fires.**

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall begin within 24 hours, not including Sunday, of the occurrence of such fire.  
(Code 1966, § 8-19; Code 1995, § 30-34)

**State Law References:** Investigation of fire by state fire marshal, V.T.C.A., Government Code § 417.007.

**Sec. 30-35. Taking of testimony.**

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the testimony to be reduced to writing. The fire marshal is hereby authorized and empowered to administer oaths and affirmations to any person appearing as a witness before him.  
(Code 1966, § 8-20; Code 1995, § 30-35)

**Sec. 30-36. Authority to summon witnesses, require production of documents.**

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is, by the provisions of this article, a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto.  
(Code 1966, § 8-21; Code 1995, § 30-36)

**Sec. 30-37. Investigations may be private; sequestering witnesses.**

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 the 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 1966, § 8-22; Code 1995, § 30-37)

**Sec. 30-38. Duty when evidence indicates crime in connection with fire.**

If the fire marshal is 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 any fire, he shall cause such person to be lawfully arrested and charged with such offense or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the name of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

(Code 1966, § 8-23; Code 1995, § 30-38)

**Sec. 30-39. Misconduct of witnesses summoned by fire marshal.**

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of the fire marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of an investigation or inquiry authorized by this article, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor, and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted.

(Code 1966, § 8-24; Code 1995, § 30-39)

**Sec. 30-40. Inspection of premises; removal or repair of dangerous conditions.**

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

(Code 1966, § 8-25; Code 1995, § 30-40)

**State Law References:** Right of entry of state fire marshal, V.T.C.A., Government Code § 417.008.

**Sec. 30-41. Right of entry.**

The fire marshal at any time may enter a building or premises at which a fire is in progress or has occurred and is under the control of law enforcement or fire service officials to investigate the cause, origin and circumstances of the fire. If control of the building or premises has been relinquished, entry must be in compliance with search and seizure law and applicable federal law.

(Code 1966, § 8-26; Code 1995, § 30-41)

**State Law References:** Similar provisions, V.T.C.A., Government Code § 417.007(b).

**Sec. 30-42. Records to be kept.**

The fire marshal shall keep in his office a record of all fires, together with all facts, statistics and circumstances, including the origin of the fires and the amount of loss, which may be determined by the investigation required by this article.

(Code 1966, § 8-27; Code 1995, § 30-42)

**Sec. 30-43. Monthly reports to state fire marshal.**

At the end of each month, the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with a separate report on each fire in the city during the month.

(Code 1966, § 8-28; Code 1995, § 30-43)

**Secs. 30-44--30-65. Reserved.**

**ARTICLE III.**

**TRANSPORTATION OF GASOLINE**

**Sec. 30-66. Maintenance of vehicles, containers, tanks.**

All vehicles, tanks and containers used for transporting gasoline shall be kept in good condition at all times, and if found in use when in a hazardous condition or in need of repair, such use and condition shall constitute prima facie evidence of a violation of this section.

(Code 1966, § 8-34; Code 1995, § 30-66)

**Sec. 30-67. Vehicles must be approved by state.**

No vehicle transporting gasoline shall be allowed inside the city limits, unless it has been state-approved, conforms to the rules and regulations authorized by V.T.C.A., Health and Safety Code ch. 753 and unless the vehicle carries a proper vehicle identification card as required by such regulations.

(Code 1966, § 8-35; Code 1995, § 30-67)

**Sec. 30-68. Parking or storing vehicles.**

No vehicle containing gasoline shall be parked or stored on the streets, alleys or public thoroughfares of the city or at any other point, except on premises owned or leased by the owner of the vehicle and approved by the fire marshal or at permanent tank locations.

(Code 1966, § 8-36; Code 1995, § 30-68)

**Sec. 30-69. Transfer of gasoline from one vehicle to another.**

No gasoline shall be transferred from one vehicle to another on any streets, alleys, public thoroughfares or at any point other than the premises on which permanent storage tanks are located, except that, in case of emergency, such transfer may be made by special permit from the fire marshal.

(Code 1966, § 8-37; Code 1995, § 30-69)

**Sec. 30-70. Unloading at approved location only.**

Railroad cars and trucks and trailers transporting gasoline in bulk shall not be loaded or unloaded within the corporate limits of the city except on premises that have been approved by the building inspector and the fire marshal.

(Code 1966, § 8-38; Code 1995, § 30-70)

**Secs. 30-71--30-90. Reserved.**

**ARTICLE IV.**

**LIQUEFIED PETROLEUM GAS\***

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\* **State Law References:** Liquefied Petroleum Gas, V.T.C.A., Natural Resources Code ch. 113.

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**DIVISION 1.**

**GENERALLY**

**Sec. 30-91. Definitions.**

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

*Liquefied petroleum gas* means any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutene, and butylenes.

*Liquefied Petroleum Gas Docket No. 1* means the rules and regulations issued by the state railroad commission, liquefied petroleum gas division.

*Premises* means the grounds, as well as all buildings and appurtenances pertaining thereto, and any adjacent premises, if directly or indirectly under control of the same person.

*Vehicle* means automobiles, trucks, trailers and all appurtenances pertaining thereto.  
(Code 1966, § 8-39; Code 1995, § 30-91)

**State Law References:** Definitions, V.T.C.A., Natural Resources Code § 113.002; rules and standards, V.T.C.A., Natural Resources Code § 113.051 et seq.

**Secs. 30-92--30-120. Reserved.**

## **DIVISION 2.**

### **TRANSPORTATION\***

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\* **State Law References:** Transport trucks and trailers, V.T.C.A., Natural Resources Code § 113.131.

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#### **Sec. 30-121. General requirements for vehicles, containers.**

(a) All vehicles used for the transportation or removal of liquefied petroleum gas over the streets, alleys or public thoroughfares of the city shall be designed, constructed and operated in accordance with the published regulations for the design, construction and operation of automobile tanks, trucks and tank trailers for the transportation of liquefied petroleum gas, as defined in Liquefied Petroleum Gas Docket No. 1, which regulations are on file in the office of the city secretary and may be examined and inspected by the public at all reasonable times.

(b) All containers used for hauling or transporting liquefied petroleum gas upon or over any premises or upon any street, alley or public thoroughfare within the city shall be designed, constructed and operated in a manner as required by the laws of the state and all special regulations of the state railroad commission as now or hereafter promulgated in conformity with the laws of the state.  
(Code 1966, § 8-45; Code 1995, § 30-121)

#### **Sec. 30-122. Maintenance of vehicles, containers, tanks.**

All vehicles, tanks and containers used for transporting liquefied petroleum gas shall be kept in good condition at all times, and if found in use when in a hazardous condition or in need of repair, such use and condition shall constitute prima facie evidence of a violation of this section.  
(Code 1966, § 8-46; Code 1995, § 30-122)

#### **Sec. 30-123. Vehicles must be approved by state.**

No vehicle transporting liquefied petroleum gas shall be allowed inside the city limits, unless it has been state-approved and carries a current liquefied petroleum gas vehicle identification card.  
(Code 1966, § 8-47; Code 1995, § 30-123)

#### **Sec. 30-124. Identification of vehicles.**

Vehicles used for hauling or transporting liquefied petroleum gas shall not be used or driven within the corporate limits of the city, unless there is displayed on the sides or rear of the container tanks the word "butane" or "propane" in letters having a minimum height of six inches.  
(Code 1966, § 8-48; Code 1995, § 30-124)

#### **Sec. 30-125. Parking or storing vehicles.**

No vehicle containing liquefied petroleum gas shall be parked or stored on the streets, alleys or public thoroughfares of the city or at any other point, except on premises owned or leased by the owner of the vehicle and approved by the fire marshal or at permanent tank locations.  
(Code 1966, § 8-49; Code 1995, § 30-125)

**Sec. 30-126. Transfer of liquefied petroleum gas from one vehicle to another.**

No liquefied petroleum gas shall be transferred from one vehicle to another on any streets, alleys, public thoroughfares or at any point other than the premises on which permanent storage tanks are located, except that, in case of emergency, such transfer may be made by special permit from the fire marshal.  
(Code 1966, § 8-50; Code 1995, § 30-126)

**Sec. 30-127. Unloading at approved location only.**

Railroad cars and trucks and trailers transporting liquefied petroleum gas in bulk shall not be loaded or unloaded within the corporate limits of the city except on premises that have been approved by the building inspector and the fire marshal.  
(Code 1966, § 8-51; Code 1995, § 30-127)

**Secs. 30-128--30-140. Reserved.**

**ARTICLE V.**

**RESERVED\***

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\* **Editors Note:** Ord. No. 20110613-7, §§ 1--5, adopted June 13, 2011, repealed Art. V, §§ 30-141--30-144 which pertained to fire code and derived from Ord. No. 20060710-2, §§ 1--4. To facilitate indexing, the current Fire Code is codified herein as Ch. 10, Art. X, §§ 10-231--10-235.

**Cross References:** Fire code, ch. 10, art. X.

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## Chapter 31

**RESERVED**

## Chapter 32

### FLOOD DAMAGE PREVENTION\*

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\* **Editors Note:** Ord. No. 20110222-1, adopted Feb. 22, 2011, deleted the former Ch. 34, Art. I, §§ 32-1--32-12, Art. II, §§ 32-43--32-46, Art. III, §§ 32-66--32-68, and enacted a new Ch. 34 as set out herein. The former Ch. 34 pertained to flood prevention and derived from Ord. of 11-13-2000, art. I, §§ A--D, art. II, art. III, §§ A--G, art. IV, §§ A--D, art. V, §§ A--C.

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#### Article I. In General

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#### Article II. Definitions

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### ARTICLE I.

#### IN GENERAL

##### Sec. 32-1. Statutory authorization.

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to

minimize flood losses. Therefore, the City Council of the City of Woodville, Texas, does ordain as follows. (Ord. No. 20110222-1, (Art. I, § A), 2-22-2011)

**Sec. 32-2. Findings of fact.**

(1) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. 20110222-1, (Art. I, § B), 2-22-2011)

**Sec. 32-3. Statement of purpose.**

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

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

(Ord. No. 20110222-1, (Art. I, § C), 2-22-2011)

**Sec. 32-4. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

- (2) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (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 flood waters or which may increase flood hazards to other lands.

(Ord. No. 20110222-1, (Art. I, § D), 2-22-2011)

**Secs. 32-5--32-10. Reserved.**

## **ARTICLE II.**

### **DEFINITIONS**

#### **Sec. 32-11. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as zones A, M, and/or E.

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

*Flood insurance study (FIS)*. See Flood elevation study.

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

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

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

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

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

*Floodway*. See Regulatory floodway.

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

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

*Historic structure* means any structure that is:

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

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

*Levee system* 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 or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

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

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

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

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

*Recreational vehicle* means a vehicle which is:

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

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

*Special flood hazard area.* See Area of special flood hazard.

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

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

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring

the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

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

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

*Water surface elevation* means the height, in relation to the 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.  
(Ord. No. 20110222-1, (Art. II), 2-22-2011)

**Secs. 32-12--32-20. Reserved.**

### **ARTICLE III.**

#### **GENERAL PROVISIONS**

**Sec. 32-21. Lands to which this chapter applies.**

The chapter shall apply to all areas of special flood hazard with the jurisdiction of the City of Woodville.  
(Ord. No. 20110222-1, (Art. III, § A), 2-22-2011)

**Sec. 32-22. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Map (FIRM), Community Number 481035, dated April 4, 2011, and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.  
(Ord. No. 20110222-1, (Art. III, § B), 2-22-2011)

**Sec. 32-23. Establishment of development permit.**

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.  
(Ord. No. 20110222-1, (Art. III, § C), 2-22-2011)

**Sec. 32-24. Compliance.**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.  
(Ord. No. 20110222-1, (Art. III, § D), 2-22-2011)

**Sec. 32-25. Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.  
(Ord. No. 20110222-1, (Art. III, § E), 2-22-2011)

**Sec. 32-26. Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

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

(Ord. No. 20110222-1, (Art. III, § F), 2-22-2011)

**Sec. 32-27. Warning and disclaimer or liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. No. 20110222-1, (Art. III, § G), 2-22-2011)

**Secs. 32-28--32-40. Reserved.**

**ARTICLE IV.**

## **ADMINISTRATION**

### **Sec. 32-41. Designation of the floodplain administrator.**

The city administrator is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.  
(Ord. No. 20110222-1, (Art. IV, § A), 2-22-2011)

### **Sec. 32-42. Duties and responsibilities of the floodplain administrator.**

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this chapter.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 32-22 of this chapter, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article V.

(Ord. No. 20110222-1, (Art. IV, § B), 2-22-2011)

### **Sec. 32-43. Permit procedures.**

(1) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 32-52(2) of this chapter;
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- e. Maintain a record of all such information in accordance with subsection 32-42(1) of this article.

(2) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

- a. The danger to life and property due to flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;

- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.  
(Ord. No. 20110222-1, (Art. IV, § C), 2-22-2011)

**Sec. 32-44. Variance procedures.**

- (1) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.
- (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 chapter.
- (3) Any person or persons 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 the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2-acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 32-43(2) of this article have been fully considered. As the lot size increases beyond the 1/2-acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (section 32-3).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (10) Prerequisites for granting variances:
  - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- b. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

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

(Ord. No. 20110222-1, (Art. IV, § D), 2-22-2011)

**Secs. 32-45--32-50. Reserved.**

## **ARTICLE V.**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **Sec. 32-51. General standards.**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 20110222-1, (Art. V, § A), 2-22-2011)

### **Sec. 32-52. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) section 32-22 of this chapter, (ii) subsection 32-42(8) of this chapter, or (iii) subsection 32-53(3) of this article, the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot 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 subsection 32-43(1)a. of this chapter, 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 one foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
- (3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.

- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

- a. Require that all manufactured homes to be placed within zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
  - 1. The lowest floor of the manufactured home is at one foot or above the base flood elevation, or
  - 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(Ord. No. 20110222-1, (Art. V, § B), 2-22-2011)

**Sec. 32-53. Standards for subdivision proposals.**

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with article I, sections 32-2--32-4 of this chapter.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 32-23 of this chapter; section 32-43 of this chapter; and the provisions of this article.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed

development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 32-22 or subsection 32-42(8) of this chapter.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. 20110222-1, (Art. V, § C), 2-22-2011)

**Sec. 32-54. Severability.**

If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this chapter.

(Ord. No. 20110222-1, (Art. V, § D), 2-22-2011)

**Sec. 32-55. Penalties for noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city council from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 20110222-1, (Art. V, § E), 2-22-2011)

## Chapter 32

### FLOOD PREVENTION\*

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\* **State Law References:** Local governments must adopt ordinances necessary for jurisdiction to qualify for National Flood Insurance Program, V.T.C.A., Water Code § 16.3145; political subdivisions to comply with federal requirements, V.T.C.A., Water Code § 16.315.

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### ARTICLE I.

#### IN GENERAL

##### Sec. 32-1. Definitions.

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

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

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

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

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

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

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

*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 or storage of equipment or materials.

*Elevated building* means a nonbasement building

- (1) 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 zone V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and
- (2) 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 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 flood waters. In the case of zone V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means off breakaway walls if the breakaway walls met the standards of section 60.3 (e) (5) of the National Flood Insurance Program regulations.

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

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for

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

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

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

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

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as zones A, M, and/or E.

*Flood insurance rate map (FIRM)* means an official report provided by the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study* is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

*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 hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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

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

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

*Floodway (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 estate without cumulatively increasing the water surface elevation more than a designated height.

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

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

*Historic structure* means any structure that is:

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

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

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

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement 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. The term "manufactured home" does not include a recreational vehicle.

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

*Mean sea level* means, for purposes of the National Flood Insurance Program, the 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 the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later; for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of subsequent improvements to such structures.

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

*Recreational vehicle* means a vehicle which is

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

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

the external dimensions of the building.

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

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

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

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

*Variance* is a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (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) is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the 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.

(Ord. of 11-13-2000, art. II)

### **Sec. 32-2. Statutory authorization.**

The legislature of the State of Texas has, in 16.3145, subchapter I, chapter 16 of the Water Code, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain this chapter.

(Ord. of 11-13-2000, art. I, § A)

### **Sec. 32-3. Findings of fact.**

- (a) The flood hazard areas of the city are subject to periodic inundation which results in loss of life

and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. of 11-13-2000, art. I, § B)

#### **Sec. 32-4. Statement of purpose.**

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

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

(Ord. of 11-13-2000, art. I, § C)

#### **Sec. 32-5. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter uses the following methods:

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

- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. of 11-13-2000, art. I, § D)

**Sec. 32-6. Lands to which this chapter applies.**

The chapter shall apply to all areas of special flood hazard with the jurisdiction of the city.

(Ord. of 11-13-2000, art. III, § A)

**Sec. 32-7. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency on its flood hazard boundary map (FHBM), community number 481035A, dated October 26, 1982, and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.

(Ord. of 11-13-2000, art. III, § B)

**Sec. 32-8. Establishment of development permit.**

A development permit shall be required to ensure conformance with the provisions of this chapter.

(Ord. of 11-13-2000, art. III, § C)

**Sec. 32-9. Compliance.**

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

(Ord. of 11-13-2000, art. III, § D)

**Sec. 32-10. Abrogation and greater restrictions.**

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

(Ord. of 11-13-2000, art. III, § E)

**Sec. 32-11. Interpretation.**

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under State statutes.

(Ord. of 11-13-2000, art. III, § F)

**Sec. 32-12. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes

and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. of 11-13-2000, art. III, § G)

**Secs. 32-13--32-42. Reserved.**

## **ARTICLE II.**

### **ADMINISTRATION**

**Sec. 32-43. Designation of the floodplain administrator.**

The city administrator 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.

(Ord. of 11-13-2000, art. IV, § A)

**Sec. 32-44. Duties and responsibilities of the floodplain administrator.**

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this chapter.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, USC 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is Texas Natural Resource Conservation Commission alteration or relocation of a watercourse, and

submit evidence of such notification to the Federal Emergency Management Agency.

- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with section 32-7, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of article III.

(Ord. of 11-13-2000, art. IV, § B)

### **Sec. 32-45. Permit procedure.**

(a) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- (1) Elevation, in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures;
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofing;
- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 32-67(2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
- (5) Maintain a record of all such information in accordance with section 32-44(1).

(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 flood waters 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; and
  - (10) The relationship of the proposed use to the comprehensive plan for that area.
- (Ord. of 11-13-2000, art. IV, § C)

**Sec. 32-46. Variance procedures.**

- (a) The appeal board as established by the community shall hear and render judgment on requests for variance from the requirements of this article.
- (b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made the floodplain administrator in the enforcement or administration of this article.
- (c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in a court of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for new construction, 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 chapter.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 32-45(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this ordinance, the appeal board may attach conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

a. Showing a good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any 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.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria outlined in subsections (a)--(i) 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. (Ord. of 11-13-2000, art. IV, § D)

**Secs. 32-47--32-65. Reserved.**

### **ARTICLE III.**

#### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

**Sec. 32-66. General standards.**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements.

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from

hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- (2) All new construction or substantial improvements shall be constructed:
  - a. By methods and practices that minimize flood damage;
  - b. With materials resistant to flood damage;
  - c. 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;
- (3) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (4) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- (5) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. of 11-13-2000, art. V, § A)

### **Sec. 32-67. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 32-7, 32-44(8) or 32-68(c), the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvements of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in section 32-45(a)(1), is satisfied.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation, in relation to mean sea level, to which such structures are floodproofed shall be maintained by the floodplain administrator.
- (3) *Manufactured homes.* Require that all manufactured homes to be placed within Zone A on a

community's FHBM or FIRM shall be installed using methods and practices, which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(Ord. of 11-13-2000, art. V, § B)

**Sec. 32-68. Standards for subdivision proposals.**

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 32-2 through 32-4.

(b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet development permit requirements of sections 32-8, 32-45, and the provisions of this article.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 32-7 or 32-44(8).

(d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. of 11-13-2000, art. V, § C)

## Chapter 33

**RESERVED**

## Chapter 34

### HEALTH AND SANITATION\*

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\* **State Law References:** Local Public Health Reorganization Act, V.T.C.A., Health and Safety Code § 121.001 et seq.; promotion of health and suppression of disease, V.T.C.A., Health and Safety Code § 122.005; Texas Controlled Substances Act, V.T.C.A., Health and Safety Code § 481.001 et seq.; community services for mental health and mental retardation, V.T.C.A., Health and Safety Code § 534.001 et seq.

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#### Article I. In General

**Sec. 34-1. Appointment, term and compensation of the health officer, health inspector and the health and sanitation review board.**  
**Secs. 34-2--34-29. Reserved.**

#### Article II. Food Service Establishments

**Sec. 34-30. Definitions.**  
**Sec. 34-31. Adoption of Texas food establishment rules.**  
**Sec. 34-32. Permits required; transferability; exemption.**  
**Sec. 34-33. Application for permit.**  
**Sec. 34-34. Review of plans.**  
**Sec. 34-35. Suspension of permit.**  
**Sec. 34-36. Revocation of permit.**  
**Sec. 34-37. Administrative process.**  
**Sec. 34-38. Remedies.**  
**Secs. 34-39--34-50. Reserved.**

#### Article III. Condition of Premises

**Sec. 34-51. Stagnant water.**  
**Sec. 34-52. Accumulations of carrion, filth, unwholesome matter.**  
**Sec. 34-53. Weeds and rubbish.**  
**Sec. 34-54. Notice to owner of premises to remove or remedy conditions.**  
**Sec. 34-55. Removal or correction of conditions by city.**

### ARTICLE I.

#### IN GENERAL

**Sec. 34-1. Appointment, term and compensation of the health officer, health inspector and the health and sanitation review board.**

The city health department is hereby established and shall be composed of a health officer, health inspector and the health and sanitation review board. The health officer shall be appointed by the mayor with the approval of the city council and shall receive such compensation as the city council may provide for the position, if any. The health inspector may be either a city employee or a contractor to the city who is either hired or contracted for by the city administrator. Compensation for this position shall be provided for in the annual city budget. The city administrator shall supervise the conduct of both persons and shall cause any carelessness or violation of duty to be prosecuted and punished. The duties of the health officer shall be to advise the city council and city administrator in dealing with any health crisis in the community. The duties of the health inspector shall be as specified in this chapter. The health and sanitation review board shall be comprised of the mayor, city administrator and the municipal judge. The duties of the health and sanitation

review board shall be specified in this chapter.

(Ord. No. 20041108-1, § 11 (34-1), 11-08-2004; Ord. No. 20080609, § 1, 6-9-2008; Ord. No. 20100614-2, § 1, 6-14-2010)

**Secs. 34-2--34-29. Reserved.**

## **ARTICLE II.**

### **FOOD SERVICE ESTABLISHMENTS\***

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\* **State Law References:** 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).

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#### **Sec. 34-30. Definitions.**

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:

*Authorized agent or employee* means the city health officer, city health inspector or the health and sanitation review board.

*Food establishment* means a retail food store, a temporary food vendor, a mobile food unit, and/or a roadside food vendor or any other provider of food for human consumption within the city.

*Regulatory authority* means the city health officer, city health inspector or the health and sanitation review board.

*State rules* means the rules found in 25 Tex. Admin. Code, Chapter 229, §§ 161-171 and 173-175. These rules are also known as the Texas Food Establishment Rules.

(Ord. No. 20001311, § 1, 11-13-2000; Ord. No. 20080609, § 1, 6-9-2008; Ord. No. 20100614-2, § 1, 6-14-2010)

#### **Sec. 34-31. Adoption of Texas food establishment rules.**

The city does hereby adopt by reference the provisions of the current rules or the rules as they may hereinafter be amended by the state board of health found in 25 Texas Admin. Code Chapter 229, §§ 161 through 171 and 173 through 175 regarding the regulation of food establishments in this jurisdiction.

(Ord. No. 20001311, § 1, 11-13-2000; Ord. No. 20080609, § 1, 6-9-2008)

#### **Sec. 34-32. Permits required; transferability; exemptions.**

(a) No person, organization, company or corporation (except as exempted by subsection (b) below, may operate a food establishment without first obtaining a permit issued by the city. A valid permit shall be prominently displayed in or on each food establishment regulated by this article.

(b) A food establishment operated solely by any non-profit, religious, educational, or fraternal organization shall be exempt from the requirement for a permit but shall not be exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether the food establishment is nonprofit, religious, educational or fraternal in nature for purposes of this exemption. (Ord. No. 20001311, § 2, 11-13-2000; Ord. No. 20080609, § 1, 6-9-2008)

**Sec. 34-33. Application for permit.**

(a) Any person desiring to operate a food establishment unless exempt as defined by subsection 34-32(b), shall make a written application on forms provided by the city. The application must contain, as a minimum, the names and addresses of each of the owners and/or operators (in the case of a corporation, the name and address of the local manager). The application must also indicate the proposed location and type of the food service establishment and pay the applicable fee.

(b) An incomplete application will not be accepted. Failure to provide all the required information or falsifying any information thereon shall be grounds for denial or revocation of a permit.

(c) Each permit shall be valid for a period of one year from the date of issuance and must be renewed on an annual basis. All information supplied on the original application shall be reconfirmed and/or updated prior to issuance of any renewal permit and the annual permit fee shall be paid.

(d) Prior to approval of an initial permit or the renewal of an existing permit, the city health inspector shall inspect the proposed food service establishment. Any food establishment that fails to comply with the laws and rules established by the state shall be denied a permit or renewal of a permit.

(e) The annual fee for a food service establishment permit or renewal of a permit shall be \$75.00. (Ord. No. 20001311, § 3, 11-13-2000; Ord. No. 20080609, § 1, 6-9-2008)

**Sec. 34-34. Review of plans.**

(a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20 percent or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the regulatory authority if they meet the city requirements of the rules adopted by this article. The approved plans and specifications must be followed in construction, remodeling or conversion.

(b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation. (Ord. No. 20001311, § 4, 11-13-2000)

**Sec. 34-35. Suspension of permit.**

(a) The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon the service of the notice required by this article. When a permit is suspended food operations shall immediately cease. Whenever a permit is suspended the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing with health and sanitation review board.

(b) Whenever a permit 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 with health and sanitation review board will be provided if a written request for a hearing is filed with the health and sanitation review board by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if the reasons for suspension no longer exist.  
(Ord. No. 20001311, § 5, 11-13-2000; Ord. No. 20100614-2, § 1, 6-14-2010)

### **Sec. 34-36. Revocation of permit.**

(a) The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules 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 with health and sanitation review board is filed with health and sanitation review board by the holder of the permit within such ten-day period.

(b) If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.  
(Ord. No. 20001311, § 6, 11-13-2000; Ord. No. 20100614-2, § 1, 6-14-2010)

### **Sec. 34-37. Administrative process.**

(a) A notice as required in these rules 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.

(b) The hearings provided for in these rules shall be conducted by the health and sanitation review board at a time and place designated by it. Based upon the recorded evidence of such hearing, the health and sanitation review board shall make final findings, 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 health and sanitation review board.  
(Ord. No. 20001311, § 7, 11-13-2000; Ord. No. 20100614-2, § 1, 6-14-2010)

### **Sec. 34-38. Remedies.**

(a) Any person who violates a provision of these rules and any person who is the permit holder of or

otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than \$500.00.

(b) The regulatory authority may seek to enjoin violations of these rules.  
(Ord. No. 20001311, § 8, 11-13-2000)

**Secs. 34-39--34-50. Reserved.**

### **ARTICLE III.**

#### **CONDITION OF PREMISES\***

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\* **State Law References:** Local regulation of sanitation, V.T.C.A., Health and Safety Code ch. 342.

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#### **Sec. 34-51. Stagnant water.**

It shall be unlawful for any person to permit or allow the accumulation of stagnant water on any lot owned or occupied by him within the city or to permit stagnant water to remain thereon. It shall likewise be unlawful for any person to permit or allow holes or places on such lots where water may accumulate and become stagnant or to permit it to remain thereon.

(Code 1966, § 10-1; Code 1995, § 34-246)

**State Law References:** Stagnant water, V.T.C.A., Health and Safety Code § 342.001.

#### **Sec. 34-52. Accumulations of carrion, filth, unwholesome matter.**

It shall be unlawful for any person who shall own or occupy any house, building, establishment, lot or yard in the city to permit or allow any carrion, filth, garbage, trash, cartons, boxes, paper, cardboard, bones, vegetable substances, tin or metal cans or other impure or unwholesome matter to accumulate or remain thereon.

(Code 1966, § 10-2; Code 1995, § 34-247)

**State Law References:** Filth, carrion, etc., V.T.C.A., Health and Safety Code § 342.003.

#### **Sec. 34-53. Weeds and rubbish.**

It shall be unlawful for any person who shall own or occupy any lot in the city to allow weeds, rubbish, brush, non-operable automobiles or any other unsightly, objectionable or unsanitary matter to be, accumulate or grow on the lot.

(Code 1966, § 10-3; Code 1995, § 34-248; Res. of 6-13-1983; Ord. No. 20070219-1, § 1, 2-19-2007)

**Editors Note:** Ord. No. 20070219-1, § 1, adopted February 19, 2007, changed the title of § 34-53 from "Weeds, rubbish, dilapidated structures."

**State Law References:** Weeds, rubbish, brush, etc., V.T.C.A., Health and Safety Code § 342.004.

#### **Sec. 34-54. Notice to owner of premises to remove or remedy conditions.**

Whenever any condition described in section 34-51, 34-52 or 34-53 is found to exist upon any lot or premises in the city, the mayor or health officer shall notify the owner of the lot or premises to remove or

remedy the condition within ten days after the date of the notice. The notice shall be in writing and shall be served on the owner in person or mailed to him at his latest known address. If personal service cannot be had and the owner's address is not known, such notice shall be given by publication in a newspaper published in the city, at least twice within ten consecutive days.

(Code 1966, § 10-4; Code 1995, § 34-249)

**State Law References:** Similar provisions, V.T.C.A., Health and Safety Code § 342.006(b).

#### **Sec. 34-55. Removal or correction of conditions by city.**

(a) If the owner of any lot or premises fails to remove or remedy any condition described in section 34-51, 34-52 or 34-53 within ten days after notice has been given as provided in section 34-54, the city may do whatever is necessary to remove or remedy the condition, or cause the work to be done, and charge the expense incurred thereby to the owner of the lot or premises and the expense shall be assessed against the real estate upon which the work was done. The doing of such work and the charging and assessing of the expenses thereof against the owner shall not relieve the owner or occupant of any prosecution for violation of section 34-51, 34-52 or 34-53.

(b) The mayor, city health authority or city official designated by the mayor shall file a statement of expenses incurred under subsection (a) of this section, giving the amount of such expenses, the date on which the work was done or improvements made, the name of the owner, if known, and the legal description of the property, with the county clerk and the city shall have a privileged lien on such lot or real estate upon which the work was done or improvements made to secure the expenditures so made, in accordance with the provisions of V.T.C.A., Health and Safety Code § 342.007, which lien shall be second only to tax liens and liens for street improvements. The amount of such expenses shall bear ten percent interest from the date of payment by the city. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city and the statement of expenses so made, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

(Code 1966, §§ 10-5, 10-6; Code 1995, § 34-250)

**State Law References:** Similar provisions, V.T.C.A., Health and Safety Code § 342.006(a).

**Chapters 35--37**

**RESERVED**

## Chapter 38

### MANUFACTURED HOMES AND TRAILERS\*

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\* **State Law References:** Regulation of certain types of housing and buildings, reservation of municipal authority, V.T.C.A., Occupations Code § 1202.251; regulation by municipality of mobile and manufactured housing, V.T.C.A., Occupations Code § 1201.008.

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#### Article I. In General

Sec. 38-1. Violation of chapter; penalty.  
Secs. 38-2--38-30. Reserved.

#### Article II. Manufactured Housing, Mobile Home and Travel Trailer Parks

##### Division 1. Generally

Sec. 38-31. Definitions.  
Secs. 38-32--38-50. Reserved.

##### Division 2. License

Sec. 38-51. Required.  
Sec. 38-52. Fees.  
Sec. 38-53. Application for park license.  
Sec. 38-54. Manufactured housing, mobile home and/or travel trailers; authorized locations.  
Sec. 38-55. Revocation; notice; hearing.  
Sec. 38-56. Transfer; fee; duration.  
Secs. 38-57--38-75. Reserved.

##### Division 3. Standards

Sec. 38-76. Physical requirements.  
Sec. 38-77. Location.  
Sec. 38-78. Maintenance.  
Sec. 38-79. Additional construction.  
Sec. 38-80. Office building.  
Sec. 38-81. Rules and regulations.  
Sec. 38-82. Utility connections.  
Sec. 38-83. Fuel.  
Sec. 38-84. Reserved.

#### Article III. Single Family and Duplex Industrialized Housing

Sec. 38-85. Regulation of single-family and duplex industrialized housing.

### ARTICLE I.

#### IN GENERAL

**Sec. 38-1. Violation of chapter; penalty.**

Any person, firm or corporation violating this chapter or any portion thereof shall upon conviction be guilty of a misdemeanor and shall be fined not less than \$1.00 nor more than \$500.00 and each day that such violation continues shall be considered a separate offense and punishable accordingly.  
(Amd. of 9-11-2000, § 38-1)

Secs. 38-2--38-30. Reserved.

## ARTICLE II.

### MANUFACTURED HOUSING, MOBILE HOME AND TRAVEL TRAILER PARKS\*

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\* **State Law References:** Minimum sanitation standards for mobile home developments, 25 Tex. Admin. Code § 265.82 et seq.

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## DIVISION 1.

### GENERALLY

#### Sec. 38-31. Definitions.

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

*Dependent mobile home or travel trailer* means a mobile home or travel trailer which does not have a flush toilet and a bath or shower.

*Independent mobile home or travel trailer* means a mobile home or travel trailer which has a flush toilet and a bath or shower.

*Manufactured housing or HUD-code manufactured home* means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent 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. The term does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(g).

*Mobile home and/or travel trailer lot* means a plot of ground within a mobile home and/or travel trailer park designed for the accommodation of one mobile home or travel trailer.

*Mobile home and/or travel trailer park* means any plot of ground upon which two or more mobile homes or travel trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations.

*Mobile home or travel trailer* means any vehicle or similar portable structure having no foundation other than wheels, jacks, blocks or skirtings, and so designed or constructed as to permit occupancy for dwelling or sleeping purposes. For purposes of determining the distance specified in section 38-76, the term mobile home or travel trailer shall include any portable, prefabricated, temporary room, commonly called cabana, that is attached to such mobile home.

*Natural or artificial barrier* means any river, pond, canal, railroad, levee, embankment, fence, hedge, road or alley.

*Park* means a manufactured housing or mobile home and/or travel trailer park.

*Skirt* means concealment of the undercarriage of a mobile home or travel trailer from view, which shall be constructed of either prefabricated metal or wood siding.

*Tiedowns* means metal bands or other sufficient material, attached to the mobile home and to the ground to hold the mobile home down in case of high winds. Tiedowns must be applicable to FHA standards.  
(Code 1995, § 38-31)

**Secs. 38-32--38-50. Reserved.**

## **DIVISION 2.**

### **LICENSE**

**Sec. 38-51. Required.**

(a) *Parks.* It shall be unlawful for any person to maintain or operate within the limits of the city any manufactured housing or mobile home and/or travel trailer park unless such person shall first obtain a license therefor.

(b) *Mobile home and/or travel trailer on any tract of ground within city jurisdiction.* It shall be unlawful for any person to park, use or occupy a manufactured home and/or travel trailer on any tract of ground within the jurisdiction of the city or on any tract of ground using any city services of the city unless a written permit is secured from the city secretary under the following procedure:

- (1) A permit is required for each manufactured home whether located in a manufactured home and/or travel trailer subdivision or otherwise.
- (2) It shall be the responsibility of the owner of the property on which the manufactured home and/or travel trailer will be parked to see that no manufactured home is parked on his property for more than 15 days without a permit.
- (3) The parking permit sticker shall be displayed upon the right front corner of the manufactured home and/or travel trailer at all times it is in effect, or on a window near the right front corner.

(Code 1995, § 38-51)

**Sec. 38-52. Fees.**

(a) *Parks.* The annual license fee for each manufactured housing or mobile home and/or travel trailer park, or transfer thereof, shall be on file in the city secretary's office.

(b) *Mobile homes and/or travel trailer spaces.* The fee for the permit shall be \$25.00 per mobile

home or travel trailer space or as may be amended from time to time by the city council. Said permit shall be valid from the date of issue until the mobile home or travel trailer is moved from said space. The following exception shall apply to travel trailers: placement of a travel trailer, capable of being pulled by a pickup truck and placed for a term of less than 90 days shall be exempt from the permit requirement. Travel trailers remaining in the same space for a period of 91 days or more shall require the payment of the fee and issuance of a permit.

(Code 1995, § 38-52; Ord. No. 20080512-2, § 1, 5-12-2008)

### **Sec. 38-53. Application for park license.**

(a) *Filing.* Applications for a manufactured housing or mobile home and/or travel trailer park license shall be filed with the city council, and upon approval by the city council, and having first obtained a building permit from the city building official, the city secretary shall issue the license. Applications shall be in writing, signed by the applicant, and shall contain the following to enable determination that the mobile home and/or travel trailer park will comply with the legal requirements:

- (1) The name and address of the applicant.
- (2) The location and legal description of the manufactured housing or mobile home and/or travel trailer park.
- (3) A complete plan of the park showing compliance with section 38-76.
- (4) Plans and specifications of all buildings and other improvements constructed, water, sewer, gas, electricity, telephone, garbage disposal, or to be constructed with the manufactured housing or mobile home and/or travel trailer park.
- (5) The license certificate shall be conspicuously posted in the office of or on the premises of the manufactured housing or mobile home and/or travel trailer park at all times.

The application and all accompanying plans and specifications shall be filed in triplicate. The mayor, health officer and city council shall investigate the applicant, and inspect the proposed plans and specifications. Each of them shall then make a report to the city council concerning such applicant and include therein their recommendations relative to the issuance of a license. If the mobile home and/or travel trailer park will be in compliance with all provisions of this division and all other applicable ordinances or statutes, the city council may approve the application, and, in the case of proposed parks, make such approval contingent upon the completion of the park according to the plans and specifications submitted with the application. After approval of park by the city council, before any work is started, there shall be a building permit acquired from the city building official. The city secretary, at the direction of the city council, shall issue the license.

(b) *Manufactured home and/or travel trailer owner information.* The application for the permit shall contain the name of the manufactured home and/or travel trailer owner, his mailing address and a description of the manufactured home and/or travel trailer which shall include its model, size and serial number.

(c) *Violation of section.* Any manufactured home and/or travel trailer subdivision operator or owner of property upon which a manufactured home and/or travel trailer is parked shall be held in violation of this

article and subject to loss of license if he violates the requirements of this section.

(d) *License revocation if debt to city becomes delinquent.* A manufactured home and/or travel trailer parking permit may be revoked at such time that debts to the city for services of water, sewerage, garbage, taxes or other services become delinquent or exceed the amount on deposit.  
(Code 1995, § 38-53)

**Sec. 38-54. Manufactured housing, mobile home and/or travel trailers; authorized locations.**

(a) *Mobile home defined.* As used in this section only, "mobile home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

(b) *Placement of mobile homes constructed prior to June 15, 1976.* Placement of a mobile home for use or occupancy as a residential dwelling, constructed prior to June 15, 1976, shall be prohibited within the corporate limits of the city. This prohibition will be prospective and shall not apply to a mobile home previously legally permitted and used or occupied as a residential dwelling within the city. Permits for such use and occupancy shall be granted by the city for replacement of a mobile home constructed prior to June 15, 1976, within the corporate limits with a HUD-code manufactured home, provided the placement of such replacement manufactured home can meet the setback and distance requirements.

(c) *Requirements for placement in city.* Except as permitted in subsection (b) above and subject to lawful compliance with this Code, a mobile home may be placed, or permitted to remain within the city, if and only if, it is situated:

- (1) In a mobile home park licensed pursuant to division 2 of this article.
- (2) In a duly platted and recorded mobile home subdivision, meeting all requirements of this article.
- (3) In a mobile home sales lot.
- (4) Upon a site that such mobile home has continuously occupied since the effective date of this article, provided that such occupation was lawful on that date, and further provided that the continued occupation thereof does not pose a significant danger to the health or safety of persons within the mobile home or to others.
- (5) Upon a site that such mobile home has occupied prior to annexation of the site by the city, provided that such mobile home has continuously occupied the site since the date the site was annexed, and further provided that the continued occupation thereof does not pose a significant danger to the health or safety of persons within the mobile home or to others.
- (6) The exemption for existing mobile homes shall apply to the mobile home being occupied on the effective date of this article as defined in subsection (c)(4) of this section, or to the mobile home being occupied at the time of annexation as defined in subsection (c)(5) of this section, and shall

include any replacement mobile homes for such site provided such replacement is made within six months of the date the mobile home being replaced has been removed, damaged or destroyed, if the placement of such replacement mobile home can meet the setback and distance requirements.

- (7) Upon a site having no other dwellings that a mobile home occupied prior to the effective date of this article, provided that such occupation was lawful on that date, and further provided that reapplication for the placement of a mobile home is made within six months of the effective date hereof provided that the occupation thereof does not pose a significant danger to the health or safety of persons within the mobile home or to others.

(d) *Placement in location not authorized by article.* It shall be unlawful for any person to park or place a mobile home at any location not authorized by this article, or to permit or suffer any mobile home to remain within the city in any location not authorized pursuant to this article.

(e) *Recreational vehicles or travel trailers.* A recreational vehicle or travel trailer may not be placed on any property except as specifically permitted in this article.

(f) *Deed restrictions and covenants.* Notwithstanding the above, all permits, licenses and approvals for occupancy issued pursuant to this article are hereby made expressly subject to applicable deed restrictions and covenants running with the land to which they appertain and no such permit, license or approvals for occupancy shall be construed as authorizing any violation of them.

(Code 1995, § 38-54; Amd. of 9-11-2000)

#### **Sec. 38-55. Revocation; notice; hearing.**

The city council may revoke any license issued under this division in case any of the provisions of this article are violated. However, before the license may be revoked, the city council must give ten days' notice to the holder of the license and hold a hearing thereon. After the license has been revoked, the license may be reissued if the reasons for the revocation have been duly corrected.

(Code 1995, § 38-55)

#### **Sec. 38-56. Transfer; fee; duration.**

Upon application for a transfer of a license issued under this article, the city council may issue a transfer upon payment of transfer fee. Such original license and transfer may be granted at any time during the year and shall expire at the end of the fiscal year of the city unless previously revoked or terminated.

(Code 1995, § 38-56)

#### **Secs. 38-57--38-75. Reserved.**

### **DIVISION 3.**

### **STANDARDS**

#### **Sec. 38-76. Physical requirements.**

The manufactured housing or mobile home and/or travel trailer park shall conform to the following requirements:

- (1) The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- (2) Mobile home and/or travel trailer lots shall be provided, consisting of a minimum of 4,000 square feet for each lot, which shall be at least 35 feet wide and clearly defined. Mobile homes or travel trailers shall be so harbored on each lot that there shall be at least a 25-foot clearance between mobile homes or travel trailers; provided, however, that with respect to mobile homes or travel trailers parked end-to-end, the end-to-end clearance between mobile homes or travel trailers may be more than 25 feet, but not less than ten feet. No mobile home or travel trailer shall be located closer than ten feet from any building within the park or 25 feet from any property line bounding the park.
- (3) All mobile home and/or travel trailer lots shall abut upon a driveway of not less than 25 feet in width which shall have unobstructed access to a public street, alley or highway. All driveways shall be hard-surfaced, well-marked in the daytime and lighted at night. The minimum quality of such driveway surfacing shall be a two-course hot top surface.
- (4) Walkways not less than two feet wide shall be provided from the mobile home and/or travel trailer lots to the service buildings. The walkway shall be hard-surfaced, as provided in subsection (3) of this section, well-marked in the daytime and lighted at night.
- (5) For each mobile home or travel trailer lot there shall be two off-street parking spaces provided.
- (6) All dependent mobile home parks and/or subdivisions shall provide restroom and shower facilities in a central location.

(Code 1995, § 38-76)

### **Sec. 38-77. Location.**

Manufactured housing or mobile home and/or travel trailer parks may be located only in conformity and outside the designated fire zone of the city, and in addition to the requirements contained therein, each boundary of the park must be at least 200 feet from any permanent residential building located outside the park, unless separated therefrom by a natural or artificial barrier, or unless a majority of the property owners according to area within the 200 feet consent in writing to the establishment of the park. The provisions of this section shall not apply to manufactured housing or mobile home and/or travel trailer parks already in existence and operation on the effective date of the ordinance from which this section was derived and such existing and operating parks shall be treated as a nonconforming use insofar as the requirements of this section are concerned.

(Code 1995, § 38-77)

### **Sec. 38-78. Maintenance.**

Every person owning or operating a manufactured housing or mobile home and/or travel trailer park

shall maintain such park and any facilities, fixtures, and permanent equipment in connection therewith in a clean and sanitary condition and shall maintain the equipment in a state of good repair.  
(Code 1995, § 38-78)

**Sec. 38-79. Additional construction.**

It shall be unlawful for any person operating a manufactured housing or mobile home and/or a travel trailer park or occupying a mobile home or travel trailer to construct or permit to be constructed in the park or in connection with the mobile home or travel trailer any additional structure, building or shelter in connection with or attached to a mobile home or travel trailer, except, however, awnings of canvas or metal, suitably constructed, may be attached to mobile homes or travel trailers, as well as portable, prefabricated, temporary rooms, for the express purpose of increasing mobile home or travel trailer living area, commonly called cabana, which meet the following requirements:

- (1) Of metal only, fire resistive, double wall, mechanical joint panels (no welded joints between panels permitted).
- (2) Strength of materials and structure to meet minimum standards of the city building code.
- (3) Capable of being dismantled when moved.
- (4) Such rooms shall be completely dismantled and removed from the site at the time the mobile home or travel trailer to which it is accessory is moved.
- (5) Finish and appearance to be as near the same as possible to the mobile home or travel trailer to which it is accessory.
- (6) The length must not exceed the length of the mobile home or travel trailer to which it is accessory.
- (7) Only one such room per mobile home and travel trailer shall be permitted.

(Code 1995, § 38-79)

**Sec. 38-80. Office building.**

Each manufactured housing or mobile home and/or travel trailer park shall be provided with a building to be known as the office and a sign thereon in which shall be kept copies of all records pertaining to the management and supervision of the park, as well as all rules and regulations of the park, such records, rules and regulations to be available for inspection by law enforcement officers, public health officials, and other officials whose duties necessitate acquisition of the information contained therein.

(Code 1995, § 38-80)

**Sec. 38-81. Rules and regulations.**

It shall be the duty of the owner, his agent, representative or manager to prescribe rules and regulations for the management of the manufactured housing or mobile home and/or travel trailer park, to make adequate

provisions for the enforcement of such rules, and to subscribe to any and all subsequent rules and regulations which may be adopted for the management of such park. Copies of all such rules and regulations shall be furnished to the city council. In addition thereto, it shall be the duty of the owner, his agent, representative or manager to comply strictly with the following:

- (1) Provide for regular inspection of the water and sanitary conveniences.
- (2) Provide for the collection and removal of garbage and other waste material.
- (3) Prohibit the placing or storage of unsightly material or vehicles of any kind.
- (4) Provide or demand that all mobile homes or travel trailers have skirts and tiedowns within 60 days of placement of the mobile home.
- (5) Tiedowns to be applicable to FHA standards.

(Code 1995, § 38-81)

**Sec. 38-82. Utility connections.**

All manufactured housing and mobile homes shall be properly connected to approved water, sewer and electrical systems.

(Code 1995, § 38-82)

**Sec. 38-83. Fuel.**

Bottled gas for cooking purposes shall not be used at individual manufactured housing, mobile home or travel trailer lots unless the containers are properly connected by copper or suitable metallic tubing. Bottled gas cylinders shall be securely fastened in place. No cylinder containing bottled gas shall be located in manufactured housing, mobile homes or travel trailers or within five feet of a door thereof. State and local regulations applicable to the handling of bottled gas and fuel oil must be followed.

(Code 1995, § 38-83)

**Sec. 38-84. Reserved.**

**ARTICLE III.**

**SINGLE FAMILY AND DUPLEX INDUSTRIALIZED HOUSING**

**Sec. 38-85. Regulation of single-family and duplex industrialized housing.**

(a) Single-family or duplex industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.

(b) For purposes of this section, single-family or duplex industrialized housing is real property.

(c) Any industrialized housing shall:

- (1) Have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for the county;
  - (2) Have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
  - (3) Comply with city aesthetic standards, building setbacks, side and rear yard offsets, subdivision control and other site requirements applicable to single-family dwellings; and
  - (4) Be securely fixed to a permanent foundation.
- (d) For purposes of subsection (c), "value" means the taxable value of the industrialized housing and lot after installation of the housing.
- (e) Any owner or authorized agent who intends to construct, erect, install, or move any industrialized housing into the city shall first make application to the building official and obtain the required permits. In addition to any other information otherwise required for 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;
  - (2) Describe the exterior siding, roofing, roof pitch, foundation fascia, and fenestration for each single-family dwelling located with 500 feet of the lot on which the industrialized housing is to be located;
  - (3) Describe the permanent foundation and method of attachment proposed for the industrialized housing;
  - (4) State the taxable value of the industrialized housing and the lot after installation of the industrialized housing; and
  - (5) Indicate the deed restrictions, if any, otherwise applicable to the real property on which the industrialized housing is to be located.
- (f) A person commits an offense if the person:
- (1) Fails to make an application for permit as required by this section; or
  - (2) Constructs, erects, installs or moves any industrialized housing into the city which does not comply with this section.

(Ord. No. 20080414, § 1, 4-14-2008)

**State Law References:** See generally V.T.C.A., Occupation Code ch. 1202, especially § 1202.253.

**Chapters 39--41**

**RESERVED**

## Chapter 42

### OFFENSES AND MISCELLANEOUS PROVISIONS\*

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\* **State Law References:** Suit to abate prostitution, gambling, etc., V.T.C.A., Civil Practice and Remedies Code § 125.001 et seq.; preemption of criminal offenses by Penal Code, V.T.C.A., Penal Code § 1.08; Type A municipality may prevent and punish certain types of disorderly conduct, V.T.C.A., Local Government Code § 217.003; Type A municipality may suppress riots, affrays and disturbances, V.T.C.A., Local Government Code § 217.003(b); municipal public health powers, V.T.C.A., Health and Safety Code § 122.005; abatement of health nuisances, V.T.C.A., Health and Safety Code § 341.011 et seq.

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#### Article I. In General

Sec. 42-1. Abandoned iceboxes, refrigerators, similar containers.

Sec. 42-2. Discharge of firearms.

Sec. 42-3. Operating vehicles, bicycles, machinery and riding horses in cemeteries.

Sec. 42-4. Solicitation to purchase or acquire a controlled substance, controlled substance analogue, dangerous drug or volatile chemical.

Secs. 42-5--42-30. Reserved.

#### Article II. Curfew Hours for Minors

Sec. 42-31. Definitions.

Sec. 42-32. Offenses.

Sec. 42-33. Jurisdiction of court.

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Sec. 42-34 Definitions.

Sec. 42-35. Offenses.

Sec. 42-36. Exceptions.

Sec. 42-37 Penalties.

## ARTICLE I.

### IN GENERAL

#### Sec. 42-1. Abandoned iceboxes, refrigerators, similar containers.

It shall be unlawful for any person to place or permit to remain outside of any dwelling, building or other structure, or within any warehouse or storage room or any unoccupied or abandoned dwelling, building or any other structure, under such circumstances as to be accessible to children, any icebox, refrigerator or other airtight or semi-airtight container which has a capacity of 1 1/2 cubic feet or more, and an opening of 50 square inches or more and a door or lid equipped with a latch or other fastening device capable of securing such door or lid shut, without first removing such door, lid, snap lock or other locking device from such icebox, refrigerator or container.

(Code 1966, § 13-1; Code 1995, § 42-1)

**State Law References:** Similar provisions, V.T.C.A., Health and Safety Code § 756.011 et seq.

#### Sec. 42-2. Discharge of firearms.

It shall be unlawful for any person to discharge or shoot any gun, revolver, pistol, rifle or other firearm within the city. This section shall not apply to any police officer in the discharge of his duties.

(Code 1966, § 13-4; Code 1995, § 42-2)

**State Law References:** Discharge of firearms, V.T.C.A., Penal Code § 42.01(a)(9), (11); municipality may regulate discharge of firearms, V.T.C.A., Local Government Code § 229.001(b)(2).

**Sec. 42-3. Operating vehicles, bicycles, machinery and riding horses in cemeteries.**

(a) It shall be illegal for any person to operate a motor vehicle of any kind, other than an automobile or truck, or to ride a horse or bicycle, or to allow a motor vehicle other than an automobile or truck owned by such person to be operated, or to allow a horse or bicycle owned by such person to be ridden, at any time within the boundaries of any cemetery or burying ground, public or private, within the city. Notwithstanding anything contained in this section to the contrary, this section shall not apply or prohibit the use of gravediggers or motor vehicles or machinery used in the maintenance and upkeep of the cemetery.

(b) It shall be illegal for any person to operate an automobile or truck or to allow an automobile or truck owned by such person to be operated within the boundaries of any such cemetery or burying ground during the hours between 30 minutes after sunset and 30 minutes before sunrise or at a speed in excess of five miles per hour at any other time.

(Code 1966, § 13-6; Code 1995, § 42-3)

**Sec. 42-4. Solicitation to purchase or acquire a controlled substance, controlled substance analogue, dangerous drug or volatile chemical.**

(a) *Definitions.* As used in this section, the following words and terms shall have the meanings ascribed to them in the subsection, unless the context of their usage clearly indicates another meaning:

*Controlled substance* shall have the meaning ascribed to it by section 481.002(5), Texas Health and Safety code, or any amendments thereto.

*Controlled substance analogue* shall have the meaning ascribed to it by V.T.C.A., Health and Safety Code § 481.002(6), or any amendment thereto.

*Dangerous drug* shall have the meaning ascribed to it by V.T.C.A., Health and Safety Code § 483.001(3) e, or any amendment thereto.

*Prohibited substance* shall mean a controlled substance, controlled substance analogue, dangerous drug, volatile chemical, or any combination thereof.

*Volatile chemical* shall mean any of the chemicals, or an isomer of any of the chemicals, listed in V.T.C.A., Health and Safety Code § 484.002, or any amendment thereto.

(b) *Offenses.*

(1) A person commits an offense if, with intent to acquire a prohibited substance, he requests, commands or attempts to induce another to sell donate or otherwise transfer or deliver a prohibited substance to the person.

(2) It is no defense to prosecution under this section that:

- a. No monetary or other consideration was tendered to the person solicited; or
- b. That the person solicited was unable or unwilling to transfer or deliver a prohibited substance.

(3) It is an affirmative defense to any prosecution under this section that:

- a. The solicitation is made in furtherance of a transaction which would not constitute a violation of any applicable law; or
- b. The solicitation is made by a peace officer or federal law enforcement officer in the lawful discharge of his duties or by a law enforcement agent acting in the lawful discharge of an official duty.

(4) Violation of this section shall constitute a misdemeanor punishable, upon conviction, by a fine of not less than \$100.00 nor more than \$500.00. However, any conduct prescribed hereunder which also constitutes an offense under state law shall not be prosecuted under this section, but shall be prosecuted pursuant to and punishable as provided by the applicable state law. An offense under this section is not a lesser included offense under V.T.C.A., Health and Safety Code ch 481, 483, or 484.

(Code 1995, § 42-4; Ord. of 11-17-1995, § 1)

**Secs. 42-5--42-30. Reserved.**

## **ARTICLE II.**

### **CURFEW HOURS FOR MINORS\***

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\* **State Law References:** Juvenile curfew in general-law municipality, V.T.C.A., Local Government Code § 341.905; review of curfew every three years, V.T.C.A., Local Government Code § 370.002; children taken into custody for violation of curfew, V.T.C.A., Code of Criminal Procedure art. 45.059.

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#### **Sec. 42-31. 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) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day.
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.
- (3) 9:00 a.m. until 3:00 p.m. when school is in session and students are required to be in school,

including students or youths under expulsion or suspension who are required to remain under supervision during this time period, all as is hereinafter set out in section 42-32(c).

*Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Establishment* 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:

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

*Minor* 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 includes the members or partners of an association or partnership and the officers of a corporation.

*Parent* means a person who is:

- (1) A natural parent, adoptive parent or stepparent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

*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 and shops.

*Remain* means to:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

*Serious bodily injury* 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 1995, § 42-31; Ord. No. 94-2, § 1, 8-15-1994)

## **Sec. 42-32. Offenses.**

(a) *Generally.*

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew.

(b) *Defenses.*

- (1) It is a defense to prosecution under this section that the minor was:
  - a. Accompanied by the minor's parent or guardian.
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop.
  - c. In a motor vehicle involved in interstate travel.
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.
  - e. Involved in an emergency.
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence.
  - g. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization or another similar entity that takes responsibility for the minor.
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.
  - i. Married or had been married or had disabilities removed in accordance with V.T.C.A., Family Code ch. 31.

(2) It is a defense to prosecution under subsection (a)(3) that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(c) *School attendance.*

(1) Compulsory school age persons must be in attendance at school; parental duties imposed.

a. No minor between the ages of six and 16, inclusive, other than a minor that has been suspended or expelled from school, shall be at any place within the city except in attendance at school between the hours of 9:00 a.m. and 3:00 p.m. during any official school day, unless the minor has written proof from school authorities excusing him from attending school at that particular time, or unless the minor is accompanied by a parent or legal guardian, or a responsible adult selected by the parent or legal guardian to supervise the minor.

b. Each parent or legal guardian of a minor between the ages of six and 16, inclusive shall have a duty to prohibit the minor from behaving contrary to subsection (c)(1)a of this section. No person shall fail to fulfill the duty imposed by this section.

c. Any person who violates subsection (c)(1)b of this section is guilty of failing to supervise a minor of compulsory school age.

(2) If a minor between the ages of six and 16 inclusive is suspended or expelled from school, each parent or legal guardian of the minor shall have the following duties for the duration of the suspension or expulsion:

a. To personally supervise the minor, or to arrange for a responsible adult to supervise the minor, at the times that the minor would have been required to be in attendance at school had he not been suspended or expelled; and

b. To prohibit the minor from being at any public place at the times that the minor would have been required to be in attendance at school had he not been suspended or expelled, except in the circumstances found in subsection (b) of this section.

(3) No minor between the ages of six and 16, inclusive, who has been suspended or expelled from school shall fail to comply with supervision provided or arranged by a parent or legal guardian.

(4) No minor between the ages of six and 16, inclusive, who has been suspended or expelled from school shall be in any public place at the times that he would have been required to be in attendance at school or employment had he not been suspended or expelled.

(d) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense, as set out in subsection (b) of this section, is

present.

(Code 1995, § 42-32; Ord. No. 94-2, § 2, 8-15-1994)

**State Law References:** Compulsory school attendance, V.T.C.A., Education Code § 21.032; exemptions, V.T.C.A., Education Code § 21.033.

### **Sec. 42-33. Jurisdiction of court.**

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 42-32(a)(1) and shall refer the minor to juvenile court.

(Code 1995, § 42-33; Ord. No. 94-2, § 3(2), 8-15-1994)

## **ARTICLE III.**

### **RESIDENCE RESTRICTIONS ON REGISTERED SEX OFFENDERS**

#### **Sec. 42-34 Definitions.**

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

*Child* means an individual younger than 17 years of age.

*Day care facility* includes a "child care institution", a "day care center", "a group day care home" or any other licensed or unlicensed "child treatment or care facility" whether it be a day facility or a group home facility.

*Park* means any land, including improvements to the land, that is administered, operated, or managed by the city for the use of general public as a recreational area.

*Playground* means any land, including improvements to the land, that is administered, operated, or managed by the city for the use of general public as a recreational area.

*Public pool* means any swimming pool, and attached buildings and land that is administered, operated, or managed by the city for the use of general public as a recreational area.

*Public and private youth center* means any land and buildings, including improvements to the land, that is administered, operated, or managed by the city or any private entity for the use of public as a recreational area.

*Residence* means a place where a person abides, lodges, or resides for a period of four or more days in aggregate, during any calendar year.

*School* means a private or public elementary or secondary school or any other facility where school is taught or tutoring occurs for children under the age of 17.

*Sex offender* means an individual who has been convicted of or placed on deferred adjudication for a sexual offense involving a child for which the individual is required to register as a sex offender [under]

V.T.C.A., Code of Criminal Procedure ch. 62.

*Video arcade* means any facility used to operate video and recreational games for the use of the public as a recreational establishment.

(Ord. No. 20100412-2, § 1, 4-12-2010)

#### **Sec. 42-35. Offenses.**

(a) It is an offense for a sex offender to intentionally, knowingly, recklessly, or with criminal negligence, to establish a residence within 1,500 feet of the property comprising a school, day care facility, park, playground, swimming pool, private or public youth center, or video arcade.

(b) The distance of 1,500 feet shall be measured on a straight line from the closest boundary line of the sex offender's residence to the closest boundary line of the school, day care facility, park, playground, swimming pool, private or public youth center, or video arcade.

(Ord. No. 20100412-2, § 1, 4-12-2010)

#### **Sec. 42-36. Exceptions.**

A person does not commit an offense under section 42-35 of this article if the person:

- (1) Is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution located within 1,500 feet of the property comprising school, day care facility, park, playground, swimming pool, private or public youth center, or video arcade.
- (2) Has established and continues to maintain the residence prior to the effective date of this article;
- (3) Has established and continues to maintain the residence prior to the effective date of this article and subsequently, a school, day care, facility, park, playground, swimming pool, private or public youth center, or video arcade is constructed or located within 1,500 feet of the sex offender's residence.
- (4) Is under 18 years of age or a ward under a guardianship, who resides with a parent or guardian;
- (5) Has been exempted by a court order from registration as a sex offender under V.T.C.A., Code of Criminal Procedure ch. 62; or
- (6) Has had the offense for which the sex offender registration was required, reversed on appeal, or pardoned.

(Ord. No. 20100412-2, § 1, 4-12-2010)

#### **Sec. 42-37 Penalties.**

Any person who violates this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the provisions of section 1-10 of this Code.

(Ord. No. 20100412-2, § 1, 4-12-2010)

**Chapters 43--45**

**RESERVED**

## Chapter 46

### PARKS AND RECREATION\*

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\* **State Law References:** Authority of municipalities to operate and maintain parks, V.T.C.A., Local Government Code § 331.001; parks to be open for public use under rules prescribed by local governing authority, V.T.C.A., Local Government Code § 331.007; local parks and other recreational and cultural resources, V.T.C.A., Local Government Code chs. 315, 331 et seq.; lease of land from state parks and wildlife department, V.T.C.A., Parks and Wildlife Code § 13.006; local boating regulations, V.T.C.A., Parks and Wildlife Code § 31.092.

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**Sec. 46-1. Hours, uses of city park.**

**Sec. 46-2. Consumption, possession of alcoholic beverages, glass containers.**

**Sec. 46-3. Prohibited animals.**

**Sec. 46-4. Litter.**

**Sec. 46-5. Park reservations and permits.**

#### **Sec. 46-1. Hours, uses of city park.**

(a) Woodville City Park located on Hyde Street in the city shall be open to the public during the hours from 7:00 a.m. until 10:00 p.m. each day. All uses of the park shall be in accordance with laws of the state and this Code.

(b) No person shall enter or go upon the park or remain in the park or use the park for any purpose whatsoever between the hours of 10:00 p.m. and 7:00 a.m.  
(Code 1995, § 46-1; Ord. No. 90-04, §§ 1, 2, 8-13-1990)

#### **Sec. 46-2. Consumption, possession of alcoholic beverages, glass containers.**

It shall be unlawful for any person or association of persons to consume or have in his possession any quantity of alcoholic beverage of any kind or to have in his possession any glass container within or on any premises dedicated to city park purposes.  
(Code 1995, § 46-2; Ord. of 10-14-1991, § 13-7)

#### **Sec. 46-3. Prohibited animals.**

Animals of all types, except dogs on leash and under the control of a competent person, are hereby prohibited from being inside the park area.  
(Ord. No. 20070611-1, § 1, 6-11-2007)

#### **Sec. 46-4. Litter.**

Any person(s) causing or permitting litter to remain in the park from their use of the park premises shall be guilty of the offense of littering. All litter shall be placed in receptacles provided within the park or removed from the area.  
(Ord. No. 20070611-1, § 1, 6-11-2007)

**Sec. 46-5. Park reservations and permits.**

Any person(s) over the age of 18 years may reserve the park pavilion for any legal purpose such as family reunions, rallies, church picnics, etc. by making application at the city offices more than three days in advance and payment of a \$10.00 reservation fee. The use of any broadcast or amplification system within the park shall require the appearance of the applicant before the city council and an affirmative vote of approval by the city council at a regular meeting in advance of the proposed date of use. Applicants for permission to use broadcast or amplification systems within the park shall make application in sufficient time to permit such application to be listed on the meeting agenda for the city council, normally the Thursday preceding council meeting.

(Ord. No. 20070611-1, § 1, 6-11-2007)

**Chapters 47--49**

**RESERVED**

## Chapter 50

### SOLID WASTE\*

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\* **State Law References:** Municipal powers relating to public health, V.T.C.A., Health and Safety Code § 122.005; minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code § 341.001 et seq.; local regulation of sanitation, V.T.C.A., Health and Safety Code § 342.001 et seq.; Solid Waste Disposal Act, V.T.C.A., Health and Safety Code § 361.001 et seq.; Solid Waste Resource Recovery Financing Act, V.T.C.A., Health and Safety Code § 362.001 et seq.; municipal solid waste, V.T.C.A., Health and Safety Code § 363.001 et seq.; litter, V.T.C.A., Health and Safety Code § 365.001 et seq.; municipal solid waste, 30 Tex. Admin. Code § 330.1 et seq.

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#### Article I. In General

Sec. 50-1. Definitions.

Sec. 50-2. Solid waste disposal service.

Sec. 50-3. Containers.

Sec. 50-4. Illegal dumping, meddling, unauthorized use of containers.

Sec. 50-5. Placing garbage, refuse in street or alley; unlawful disposal.

Sec. 50-6. Meddling with refuse containers, scattering or junking in street or alley prohibited.

Sec. 50-7. Collection, hauling must be authorized.

Sec. 50-8. Investigations and inspections.

Sec. 50-9. Deposit in street or alley prohibited.

Sec. 50-10. Burning in the city.

Sec. 50-11. Conflicting provisions.

Secs. 50-12--50-45. Reserved.

#### Article II. Collection

Sec. 50-46. Collection by city; frequency, placement of containers.

Sec. 50-47. Places of excessive accumulations.

Sec. 50-48. Heavy dead animals.

Sec. 50-49. Heavy or bulky accumulations.

Sec. 50-50. Manure, waste oils.

Sec. 50-51. Rates.

### ARTICLE I.

#### IN GENERAL

##### Sec. 50-1. 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:

*Garbage* means all putrescible wastes, except sewage and body wastes, including all meat, vegetable and fruit refuse, and carcasses of small animals and dead fowl from any premises within the city limits.

*Premises* means business houses, boardinghouses, offices, theaters, hotels, restaurants, cafes, eating houses, tourist camps, apartments, sanitariums, roominghouses, schools, private residences, vacant lots and other places within the city limits, where refuse, either garbage or rubbish, accumulates.

*Refuse* means all solid wastes, including garbage and rubbish.

*Rubbish* means tin cans, bottles, papers, tree limbs (which shall be cut into lengths not exceeding three feet), papers, etc., from any premises within the city limits.

(Code 1966, § 9-2; Code 1995, § 50-1)

**State Law References:** Definitions, V.T.C.A., Health and Safety Code § 361.003.

### **Sec. 50-2. Solid waste disposal service.**

(a) In accordance with and under the authority of V.T.C.A., Health and Safety Code ch. 364, the city, a "public agency" as that term is defined in such act, in furtherance of this chapter, hereby offers the solid waste disposal service described in this chapter to and, also under the authority of this chapter and in furtherance of this chapter, hereby also requires the use of such solid waste disposal service by any and all persons within the boundaries of the city, and hereby establishes such solid waste disposal service as a utility separate from all other utilities within the boundaries of the city.

(b) Under the authority of such statute, the city hereby charges and imposes the fees established in this chapter for the use of such solid waste disposal service.

(c) Under the authority of V.T.C.A., Health and Safety Code ch. 364, it is hereby ordered that service from any and all other utilities owned or operated by the city be suspended to any person who may become delinquent in payment of the solid waste disposal service fees imposed by this section until such time as the delinquency has been paid in full by such person, and no employee or official of the city shall restore service from any other utility to any such person or the premises occupied by such person until the delinquency has been paid in full.

(d) The schedule of fees referred to in this section may be changed from time to time by resolution adopted by the city council.

(Code 1966, § 14-7.1; Code 1995, § 50-2)

### **Sec. 50-3. Containers.**

(a) It shall be the duty of every person owning, managing, operating, leasing or renting any premises, or any place where garbage or rubbish accumulates, to place such material (except for limbs) in a container (or containers) provided by the city sanitation service. Further, it shall be the duty of every such person to maintain such container(s) in a clean state, free from accumulation of any substance(s) attached to the inside of the container(s) which would attract or permit the breeding of flies, mosquitoes or other insects.

(b) All garbage placed in containers should have, as far as possible, all water and/or other liquids eliminated and the garbage wrapped or bagged in paper or plastic bags to help keep the containers as clean and odor free as possible.

(c) . All containers used to place garbage or rubbish at, on or near the edge or curb of the street for collection shall be removed from the street edge or curb not later than 10:00 p.m. on the day of collection.

(Code 1966, § 9-3; Code 1995, § 50-3; Ord. No. 20061211-3, § 1, 12-11-2006; Ord. No. 20070813-2, § 1, 8-13-2007)

**Sec. 50-4. Illegal dumping, meddling, unauthorized use of containers.**

- (a) The dumping of kitchen garbage, trash or any kind of rubbish in any street, alley or any place within the city limits, except at the city designated disposal area, is prohibited.
- (b) The meddling with garbage cans, trash or rubbish receptacles or in any way pilfering, scattering contents or junk in any alley or street within the city limits is prohibited.
- (c) Use of garbage cans or rubbish containers by those other than the party paying for the pickup of such garbage or rubbish therefrom, is prohibited.  
(Code 1995, § 50-4; Ord. No. 92-5, § I, 10-12-1992)

**Sec. 50-5. Placing garbage, refuse in street or alley; unlawful disposal.**

The placing of garbage or rubbish or any refuse material in any street or alley within the city limits or the disposal of such refuse at any place within the city limits is prohibited.  
(Code 1966, § 9-9; Code 1995, § 50-5)

**State Law References:** Texas Litter Abatement Act, V.T.C.A., Health and Safety Code ch. 365.

**Sec. 50-6. Meddling with refuse containers, scattering or junking in street or alley prohibited.**

The meddling with refuse containers or in any way pilfering, scattering contents or junking in any alley or street within the city limits is prohibited.  
(Code 1966, § 9-10; Code 1995, § 50-6)

**Sec. 50-7. Collection, hauling must be authorized.**

The collection or hauling or transporting of garbage or rubbish or any kind of junk within the city limits is prohibited except as provided for in article II of this chapter.  
(Code 1966, § 9-11; Code 1995, § 50-7)

**Sec. 50-8. Investigations and inspections.**

It shall be the duty of the city administrator or his duly authorized representative, or his duly authorized agent, and he is hereby directed, to make all necessary inspections and investigations of any and all premises to see that the terms of sections 50-3 through 50-9 and sections 50-46 through 50-50 are complied with.  
(Code 1966, § 9-13; Code 1995, § 50-9)

**Sec. 50-9. Deposit in street or alley prohibited.**

It shall be unlawful for any person to sweep out, throw or otherwise deposit in or on any street or alley in the city any garbage, trash, loose paper, filth, tin, pieces of iron or any animal or vegetable substance or any animal or human excreta.  
(Code 1966, § 9-16; Code 1995, § 50-10)

**Sec. 50-10. Burning in the city.**

It shall be unlawful for any person to burn any material(s) outdoors except as follows:

- (1) In a fireplace or stove, designed and built for the purposes of cooking food or providing heat to persons; or
- (2) For recreational or ceremonial purposes, such as bonfires (provided no treated wood or noxious materials may be burned in such fires); or
- (3) For purposes of clearing land, rights of way, or banks of water ways of trees, brush and other plant growth. Burning carried out under this exception must conform with all of the requirements for outdoor burning prescribed by the Texas Commission on Environmental Quality and may not produce adverse effects for structures containing sensitive receptors (for example, occupied buildings, barns or greenhouses). This exception may be used only when there is no practical alternative and when the materials are generated only from the property on which the burning occurs.

(Code 1966, § 9-17; Code 1995, § 50-11; Ord. No. 20061211-3, § 2, 12-11-2006; Ord. No. 20070813-2, § 2, 8-13-2007)

**Editors Note:** Ord. No. 20061211-3, § 2, adopted December 11, 2006, changed the title of § 50-10 from "Burning in street or alley prohibited."

#### **Sec. 50-11. Conflicting provisions.**

Sections 50-1 through 50-8 and sections 50-46 through 50-50 shall be complementary to and in addition to all other sanitary ordinances or regulations of the city unless in conflict with the terms of any other ordinance or regulation in which case the terms of such sections in this chapter shall prevail.

(Code 1966, § 9-15; Code 1995, § 50-12)

#### **Secs. 50-12--50-45. Reserved.**

## **ARTICLE II.**

### **COLLECTION**

#### **Sec. 50-46. Collection by city; frequency, placement of containers.**

The city shall collect from the residential areas of the city all garbage and rubbish. It shall be the duty of any person in possession or control of any premises to place the containers required in section 50-3(a) in a location easily accessible for the collector as directed by the city secretary.

(Code 1966, § 9-4; Code 1995, § 50-46; Ord. No. 92-3, 10-12-1992)

#### **Sec. 50-47. Places of excessive accumulations.**

The places of excessive accumulations of garbage and rubbish, such as killing and dressing plants for fowl, may be excluded from the service provided by the city garbage department and such accumulations shall then be removed and disposed of at the expense of the owner or person having charge of the accumulations, provided that the owner or person having such accumulations in charge shall secure from the city administrator a written permit for removal and disposal of such accumulations. The permit shall be issued only after the city

administrator has satisfied himself that the licensee is capable of complying with the requirements of sections 50-3 through 50-8 and sections 50-46 through 50-50. The permit may be revoked by the city administrator when deemed necessary to the public welfare.

(Code 1966, § 9-5; Code 1995, § 50-47)

**Sec. 50-48. Heavy dead animals.**

Heavy dead animals, such as cows, horses and mules, shall be removed and disposed of at the expense of the owner or person having them in charge and by the method directed by the city administrator.

(Code 1966, § 9-6; Code 1995, § 50-48)

**Sec. 50-49. Heavy or bulky accumulations.**

Heavy accumulations such as brush, broken concrete, ashes, sand or gravel, automobiles, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling them under the direction of the city administrator.

(Code 1966, § 9-7; Code 1995, § 50-49)

**Sec. 50-50. Manure, waste oils.**

Manure from cowlots, horse stables, poultry yards, pigeon lofts, and other animal or fowl pens, and waste oils from garages or filling stations shall be removed and disposed of at the expense of the person controlling them in the manner and by the method directed by the city administrator.

(Code 1966, § 9-8; Code 1995, § 50-50)

**Sec. 50-51. Rates.**

The garbage rates for the city shall be as established from time to time by ordinance.

(Code 1995, § 50-51; Ord. No. 92-03, 8-24-1992; Ord. of 10-12-1992; Ord. of 9-12-1994(2); Ord. No. 97-1, 9-29-1997)

**Chapters 51--53**

**RESERVED**

## Chapter 54

### STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\*

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\* **State Law References:** Powers of general-law municipality over streets, V.T.C.A., Transportation Code § 311.002; additional authority of Type A municipality, V.T.C.A., Transportation Code § 311.003; street lighting in Type A municipality, V.T.C.A., Transportation Code § 311.902; 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 Tex. Civ. Stat. Art. 1175.

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#### Article I. In General

Sec. 54-1. Obstructions generally.

Sec. 54-2. Unlawful assemblies.

Sec. 54-3. Liability of city for damages due to defects, obstructions.

Sec. 54-4. Use of streets, alleys for selling or displaying goods, wares.

Sec. 54-5. Waiver of provisions for certain nonprofit organizations.

Sec. 54-6. Street lights.

Secs. 54-7--54-30. Reserved.

#### Article II. Impounded Property

Sec. 54-31. When impoundment authorized.

Sec. 54-32. Creation of lien; disposition of property generally.

Sec. 54-33. Redemption.

Sec. 54-34. Sale authorized.

Sec. 54-35. Notice of sale of property other than motor vehicles.

Sec. 54-36. Notice of sale of motor vehicles.

Sec. 54-37. Sale at public auction; execution of bill of sale.

Sec. 54-38. Disposition of sale proceeds.

Sec. 54-39. Disposal of unsold property.

Sec. 54-40. Records to be kept.

### ARTICLE I.

#### IN GENERAL

##### Sec. 54-1. Obstructions generally.

It shall be unlawful for any person to in any way obstruct or cause to be obstructed the free passageway along any street, alley or sidewalk by allowing boxes, implements, goods, empty boxes or packing cases or crates, or debris of any kind to remain on the street, alley or sidewalk in front of his premises, or by constructing any building or improvement so as to obstruct any such street, alley or sidewalk.

(Code 1966, § 16-1; Code 1995, § 54-1)

**State Law References:** Type A municipality may prevent obstruction of sidewalk, V.T.C.A., Transportation Code § 316.003(1).

##### Sec. 54-2. Unlawful assemblies.

It shall be unlawful for persons to crowd or congregate upon the streets or sidewalks of the city so as to obstruct free passage in, upon or along them. Any person so crowding and obstructing free passage, or

participating therein, who shall fail to desist therefrom and disperse when commanded to do so by any police officer shall be guilty of a misdemeanor.  
(Code 1966, § 16-2; Code 1995, § 54-2)

**Sec. 54-3. Liability of city for damages due to defects, obstructions.**

The city shall not be liable for damages to anyone, on account of any defect in, obstruction on, or anything else in connection with any sidewalk, street, alley or public place, unless and until it is shown that the city administrator or the mayor or a member of the city council had actual notice of such defect, obstruction or other thing, for a sufficient length of time before the injury was received to have remedied the condition before the injury was received.

(Code 1966, § 16-3; Code 1995, § 54-3)

**State Law References:** Liability of a municipality, V.T.C.A., Civil Practice and Remedies Code § 101.0215.

**Sec. 54-4. Use of streets, alleys for selling or displaying goods, wares.**

It shall be unlawful for any person to use the streets or alleys embraced within the limits of the city for the purpose of vending or displaying goods, wares, merchandise, produce or other articles, or for the purpose of peddling goods, wares, merchandise, produce or other articles.

(Code 1966, § 16-4; Code 1995, § 54-4)

**Sec. 54-5. Waiver of provisions for certain nonprofit organizations.**

Upon 30 days' written application to the city council, the council may authorize the city administrator to grant a waiver of the provisions of sections 54-1 through 54-4 in favor of any not-for-profit religious, charitable, benevolent, civic or fraternal organization which is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The application shall set out the name of the organization, the principal officer of the organization and its permanent mailing address accompanied by proof that it is exempt from federal income taxation under the provisions of the Internal Revenue Code mentioned. The waiver shall be for no longer period than two days and nights. The city administrator will designate the location where the organization may sell goods, wares or merchandise and the type of goods, wares and merchandise to be offered for sale. No waiver may be granted to any person other than those organizations enumerated in this section.

(Code 1995, § 54-5; Ord. of 10-15-1990, § 16-5)

**Sec. 54-6. Street lights.**

The city administrator is authorized to administer the street lighting program of the city, subject to this policy as adopted by the city council.

- (1) Street lights may be placed when any of the following conditions are present:
  - a. The location is at the intersection of city streets;
  - b. The location is where a hazardous curve or street condition exists;
  - c. The location is at a dangerous bridge abutment;

- d. The location is the at the end of a cul-de-sac street if not adequately lit by other means;
- e. The location has been determined to be hazardous or unsafe;
- f. The location is an area of high pedestrian traffic;
- g. The location is a high-crime area as determined by the police chief.

(2) The city shall not place any light along any county road, state or federal highway outside the city limits, nor on private property.

(Ord. No. 20061211-1, §§ 1--3, 12-11-2006)

**Editors Note:** Ord. No. 20061211-1, §§ 1--3, adopted December 11, 2006, did not specify manner of inclusion; hence, inclusion as § 54-6, subsections (1), (2) is at the discretion of the editor.

**Secs. 54-7--54-30. Reserved.**

**ARTICLE II.**

**IMPOUNDED PROPERTY\***

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\* **State Law References:** Disposition of most unclaimed and abandoned property, V.T.C.A., Penal Code § 18.17.

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**Sec. 54-31. When impoundment authorized.**

Any vehicle or other property or obstruction placed, left standing, parked, erected or lying in violation of any provision of this Code or any other ordinance of the city, or left unattended for more than 48 continuous hours in or on any public street, alley, sidewalk, park or other public place of the city is declared to be a nuisance, and any such property when so found shall be removed summarily by the chief of police, the city administrator or any other officer of the city and taken to the pound maintained by the city and kept there until redeemed or sold as provided in this article.

(Code 1966, § 11-1; Code 1995, § 54-31)

**State Law References:** Nuisance, V.T.C.A., Local Government Code § 217.002.

**Sec. 54-32. Creation of lien; disposition of property generally.**

The city shall have a lien on property impounded under this article for all costs incurred in impounding, storing and advertising such property and the lien shall be prior and superior to all other liens of every kind, except liens for ad valorem taxes, and the city may retain possession of the property until all costs are paid and may sell the property as provided in this article.

(Code 1966, § 11-2; Code 1995, § 54-32)

**Sec. 54-33. Redemption.**

The owner or any person legally entitled to possession of property impounded under this article may redeem the property as follows:

- (1) *Before sale.* By paying to the city secretary all actual expenses incurred by the city in impounding and keeping the property, as determined by the city administrator.
- (2) *After sale.* By paying to the buyer at the auction sale double the amount paid by him for the property and any reasonable expenses incurred by him for keeping it. The property must be redeemed from the auction buyer within 30 days after the date of the auction sale, excluding the date of sale; otherwise, title to the property shall become absolute in the auction buyer.

(Code 1966, § 11-3; Code 1995, § 54-33)

#### **Sec. 54-34. Sale authorized.**

When any property impounded under this article, other than motor vehicles, is not redeemed within 60 days after being impounded, and when any motor vehicle so impounded is not redeemed after compliance by the city administrator with the provisions of section 54-36, the city secretary shall sell the property at public auction to satisfy the lien of the city.

(Code 1966, § 11-4; Code 1995, § 54-34)

#### **Sec. 54-35. Notice of sale of property other than motor vehicles.**

Before selling any property impounded under this article, other than motor vehicles, the city secretary shall post two notices of the sale, one at the courthouse door of the county and one at the entrance of the city hall, and shall cause a copy thereof to be published in a newspaper published in the city once a week for two consecutive weeks, the date of the first publication to be at least 14 days prior to the day of the sale. The notice of sale shall describe the impounded property, state that it is unredeemed, state that it will be sold at public auction, designate the place of sale, and state a time and date of sale which shall not be less than 14 days from the date of posting the notices as required in this section.

(Code 1966, § 11-5; Code 1995, § 54-35)

#### **Sec. 54-36. Notice of sale of motor vehicles.**

(a) When any motor vehicle impounded under this article has not been redeemed within 30 days from the date of its impounding, it shall be the duty of the city administrator to submit to the state department of transportation, and similar agency of the proper state when the vehicle is from another state, all information in his possession concerning the vehicle and to request that such department supply to him all information the records of the department contain on the vehicle. Immediately on receipt of the information from such department the city secretary shall notify the owner and lienholders as shown by the records of such department, by registered mail with return receipt requested, that the vehicle has been impounded and of the provisions of this article in regard to redemption and sale of impounded property.

(b) If a motor vehicle has not been redeemed within 15 days from receipt of the return receipt or notice of nondelivery of the registered mail, the city administrator shall prepare a notice of sale of the vehicle in the manner described in section 54-35, shall send a copy of the notice to the owner and lienholders, as shown by the records of the department of transportation, by registered mail, and shall post and advertise such notice in the manner required in section 54-35. Notice by registered mail to the address shown on the records of the department of transportation shall constitute notice of the pending sale to such owner and lienholders.

(c) When the city administrator is unable to ascertain the names of the owner and lienholders, and the motor vehicle has not been redeemed within 45 days from its impounding, no notice of sale other than posting and advertising as prescribed in this section shall be required.

(Code 1966, § 11-6; Code 1995, § 54-36)

**Sec. 54-37. Sale at public auction; execution of bill of sale.**

When any property impounded under this article, including motor vehicles, is not redeemed by the date and time designated in the notice of sale, the city administrator shall sell the property at public auction and, as city auctioneer, shall execute a bill of sale of the property to the purchaser thereof; provided, he shall not execute or deliver any but a conditional bill of sale unless and until the title of the buyer has become absolute by the expiration of 30 days in time, exclusive of the day of sale, without being redeemed by the owner of the impounded property.

(Code 1966, § 11-7; Code 1995, § 54-37)

**Sec. 54-38. Disposition of sale proceeds.**

After deducting the impounding fee and all other actual expenses incurred by the city in impounding, storing and selling property under this article, as determined by the city secretary, not to exceed a reasonable amount for each impounded article, the city administrator shall pay the balance of the proceeds of the sale, if any, to the owner of the property. If the owner fails to call for such proceeds they shall be paid into the city treasury. Within six months after the auction sale, the owner may apply in writing to the city administrator, and upon satisfactory proof of ownership, shall be entitled to receive the amount of the proceeds delivered to the city treasury.

(Code 1966, § 11-8; Code 1995, § 54-38)

**Sec. 54-39. Disposal of unsold property.**

Impounded property which is offered for sale at public auction in accordance with the procedure prescribed by this article and upon which no person bids shall thereafter be sold or otherwise disposed of as junk. Money received for junk property shall be disposed of in the same manner as proceeds from an auction sale under this article.

(Code 1966, § 11-9; Code 1995, § 54-39)

**Sec. 54-40. Records to be kept.**

The city secretary shall keep a record book which shall contain a description of all property impounded under this article, the date and time of such impounding, the date notices of sale were posted and advertised and mailed to owners and lienholders, the return of receipts of registered notices, the date of the sale at auction, the amount realized for each article at the sale, the name and address of the owner and lienholders, if known, the name and address of the auction buyer, and any other information which he deems necessary.

(Code 1966, § 11-10; Code 1995, § 54-40)

**Chapters 55--57**

**RESERVED**

## Chapter 58

### TAXATION\*

\* **State Constitution References:** Taxes to be levied and collected by general laws and for public purposes only, Tex. Const. art. 8, sec. 3.

**State Law References:** Property taxes, V.T.C.A., Tax Code § 1.01 et seq.; local occupation taxes, V.T.C.A., Tax Code § 101.008; occupation taxes generally, V.T.C.A., Tax Code § 191.081 et seq.; local taxation, V.T.C.A., Tax Code ch. 301 et seq.

**Sec. 58-1. Hotel occupancy tax.**

**Sec. 58-2. Telecommunications services tax.**

#### **Sec. 58-1. Hotel occupancy tax.**

Pursuant to the provisions of V.T.C.A., Tax Code ch. 351, there is hereby imposed and levied a tax upon the cost of occupancy of any sleeping room furnished by any hotel in the city, as such terms are defined in V.T.C.A., Tax Code ch. 351, equal to seven percent of the consideration paid by the occupant of such sleeping room to any such hotel. The revenue derived from the tax shall be deposited in the banking institution selected as the city depository in a special fund and shall be used for one of the purposes authorized by V.T.C.A., Tax Code § 351.101 et seq., as ordered at any time and from time to time by resolution adopted by the city council. The tax hereby imposed shall be remitted and paid to the city by the owner and/or operator of any such hotel as defined in such law on consideration paid for occupancy of such hotel during the months of July, August and September of each year on or before October 31 of that year. Tax on consideration paid during the months of October, November and December of each year shall be paid on or before January 31 of the following year, and on consideration paid during the months of January, February and March of each year the tax shall be paid on or before April 30 of that year and the tax for the consideration paid during the months of April, May and June of each year shall be paid on or before July 31 of that year.

(Code 1966, § 17-4; Code 1995, § 58-1)

**State Law References:** Municipal hotel occupancy tax, V.T.C.A., Tax Code, § 351.001 et seq., 25 Tex. Admin. Code §§ 3.161--3.163

#### **Sec. 58-2. Telecommunications services tax.**

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

(b) The application of the 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).

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

(d) This section shall become effective as of October 1, 1987.

(e) This section shall be and is hereby declared to be cumulative of all other ordinances of the city and this section shall not operate to repeal or affect any of such other ordinances. The tax provided for under this section shall not serve as an offset to be in lieu of or in any way reduce any amount payable to the city pursuant to any franchise, street use ordinance, statute, or without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent of this section that all such obligations, impositions and agreements of every kind and nature shall remain in full force and effect without reduction or limitation by this section.

(Code 1995, § 58-1; Ord. of 3-14-1988, §§ 1(a)--(c), (e), 2)

**Chapters 59--61**

**RESERVED**

## Chapter 62

### TRAFFIC AND VEHICLES\*

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\* **State Law References:** 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 restrictions on use of state highways, 25 Tex. Admin. Code §§ 25.601--25.603; regulation of certain drivers and porters, V.T.C.A., Local Government Code § 215.029; regulation of parking, V.T.C.A., Local Government Code § 431.001 et seq.

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## ARTICLE I. IN GENERAL

### Sec. 62-1. 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:

*Alley* means a street that:

- (1) Is not used primarily for through traffic; and
- (2) Gives access to rear entrances of buildings or lots along the street.

*Authorized emergency vehicle* means vehicles of the fire department (fire patrol), police vehicles, public and private ambulances for which permits have been issued by the state board of health, emergency vehicles of municipal departments or public service corporations as are designated or authorized by the city council private vehicles operated by volunteer firefighters or certified emergency medical services employees or volunteers while answering a fire alarm or responding to a medical emergency, industrial ambulances and other industrial emergency response vehicles when operating in an emergency situation provided the vehicle is also operated in adherence with criteria established by the Texas Industrial Fire Training Board of the State Firemen's and Fire Marshals' Association of Texas as the criteria are in effect on September 1, 1989, and vehicles operated by blood banks or tissue banks, accredited or approved under the laws of this state or the United States, while making emergency deliveries of blood, drugs or medicines, or organs.

*Business district* means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes (including but not limited to hotels, banks or office buildings, railroad stations and public buildings), which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

*Crosswalk* means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs, or in the absence of curbs, from the edges of the traversable roadway. The word "crosswalk" also means any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surfaces.

*Curb loading zone* means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

*Department* means the department of public safety of this state acting directly or through its duly

authorized officers and agents.

*Driver or operator* means every person who drives or is in actual physical control of a vehicle.

*Freight curb loading zone* means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

*Intersection* means the area embraced within the prolongation or connection of the lateral curblines, or if none, then the lateral boundary lines of the roadways of two streets which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict. Where a street includes two roadways 30 feet or more apart, every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. If the intersecting street also includes two roadways 30 feet or more apart, then every crossing of two roadways of such streets shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.

*Laned roadway* means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

*Limited-access or controlled access highway* means every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

*Motor vehicle* means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

*Motorcycle* means every motor vehicle having a saddle for the use of the rider and designed to propel itself with not more than three wheels in contact with the ground but excluding a tractor.

*Official traffic control devices* means all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

*Park or parking* means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

*Passenger curb loading zone* means a place adjacent to a curb for the exclusive use of vehicles during the loading or unloading of passengers.

*Pedestrian* means any person afoot.

*Police officer* means every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

*Private road or driveway* means every way or place in private ownership and used for vehicular travel

by the owner and those having express or implied permission from the owner but not by other persons.

*Railroad* means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

*Railroad train* means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

*Residence district* means the territory contiguous to and including a street or highway not comprising a business district when the property on such street or highway, for a distance of 300 feet or more, is, in the main, improved with residences or residences and buildings in use for business.

*Right-of-way* means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

*Roadway* means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

*Safety zone* means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

*Sidewalk* means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

*Stand or standing* means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

*Stop*, when required, means complete cessation of movement.

*Stop or stopping*, when prohibited, means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

*Traffic* means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances, either singly or together, while using any street for purposes of travel.

*Traffic control signal* means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.  
(Code 1966, § 19-1; Code 1995, § 62-1)

**State Law References:** Definitions under state uniform act, V.T.C.A., Transportation Code § 541.001 et seq.

### **Sec. 62-2. General duties of chief of police.**

It shall be the duty of the chief of police to conduct analysis of traffic accidents and to devise remedial measures, to conduct investigations of traffic conditions and to cooperate with other city officials in the development of ways and means to improve traffic conditions, and to carry out the additional powers and duties imposed by this chapter and other traffic ordinances.

(Code 1966, § 19-2; Code 1995, § 62-2)

### **Sec. 62-3. Duty of police officers to enforce traffic laws.**

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 street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.

(Code 1966, § 19-3; Code 1995, § 62-3)

### **Sec. 62-4. Authority of police officers to direct traffic.**

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. In the event of 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.

(Code 1966, § 19-4; Code 1995, § 62-4)

**State Law References:** Authority of city to regulate traffic by means of police officers, V.T.C.A., Transportation Code § 542.202(a)(1).

### **Sec. 62-5. Authority of officers of fire department to direct traffic.**

Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic at the scene or in the immediate vicinity.

(Code 1966, § 19-5; Code 1995, § 62-5)

### **Sec. 62-6. Obedience to traffic officers.**

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official given to direct or control traffic as authorized in this chapter.

(Code 1966, § 19-6; Code 1995, § 62-6)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 542.501.

### **Sec. 62-7. Vehicle equipment.**

It shall be unlawful for any person to operate any vehicle on any street, alley or other public way in the city, unless the vehicle is equipped in accord with all state laws governing vehicles, particularly Vernon's Ann. Civ. St. art. 6701d, §§ 108 through 139F, or to fail to use such equipment as required by such laws, or to use any equipment contrary to such laws.

(Code 1966, § 19-7; Code 1995, § 62-7)

### **Sec. 62-8. Riding on portion of vehicle not intended for passengers.**

No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to any employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.  
(Code 1966, § 19-8; Code 1995, § 62-8)

**Sec. 62-9. Riding on motorcycles.**

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator.  
(Code 1966, § 19-9; Code 1995, § 62-9)

**Sec. 62-10. Boarding or alighting from moving vehicles.**

No person shall board or alight from any vehicle while the vehicle is in motion.  
(Code 1966, § 19-10; Code 1995, § 62-10)

**Sec. 62-11. Clinging to vehicles.**

No person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall attach it or himself to any vehicle upon any roadway.  
(Code 1966, § 19-11; Code 1995, § 62-11)  
**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 551.102(d).

**Sec. 62-12. Use of roller skates, coasters, toy vehicles on roadway.**

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway except while crossing a street on 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 to pedestrians.  
(Code 1966, § 19-12; Code 1995, § 62-12)

**Sec. 62-13. Permit for parades and processions.**

It shall be unlawful for any person to conduct or participate in any parade or procession upon any street in the city, unless a permit for such parade or procession has been issued by the city council. Application for the permit shall be presented by the sponsor/sponsors of the parade or procession to the city council for its approval at a scheduled meeting prior to the parade or procession. There shall be no fee for such permit. When a permit is issued under this section, the city council shall designate the place of gathering or formation, the route of travel and the streets which may be used for the parade or procession. This section shall not apply to funeral processions.  
(Code 1966, § 19-12.1; Code 1995, § 62-13; Amd. of 6-9-2003)

**Sec. 62-14. Glass, nails, other injurious substances shall not be deposited in street; removal.**

(a) No person shall throw or deposit upon any street or alley any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street or alley.

(b) Any person who drops or permits to be dropped or thrown upon any street or alley any destructive or injurious material shall immediately remove it or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from any street or alley shall remove any glass or other injurious substance dropped upon the street or alley from the vehicle.  
(Code 1966, § 19-13; Code 1995, § 62-14)

#### **Sec. 62-15. Accident reports.**

(a) The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of \$500.00 or more shall immediately, by the quickest means of communication, either verbal or written, give notice of the accident to the police department, if the accident occurs within the city.

(b) The police department shall receive and properly file all accident reports made to it under state law or under this section, but all such accident reports made by drivers shall be for the confidential use of the police department as provided by law.

(c) The police department shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location.  
(Code 1966, § 19-14; Code 1995, § 62-15)

**State Law References:** Accidents and report provisions, V.T.C.A., Transportation Code § 550.001 et seq.; municipal authority to require report by vehicle operator, V.T.C.A., Transportation Code § 550.067.

#### **Sec. 62-16. Accident investigations, studies.**

(a) It shall be the duty of the police department to investigate traffic accidents and to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

(b) Whenever the accidents at any particular location become numerous, the police department shall conduct a study of such accidents and determine remedial measures which should be taken.  
(Code 1966, § 19-15; Code 1995, § 62-16)

#### **Sec. 62-17. Persons riding animals or driving animal-drawn vehicles.**

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.  
(Code 1966, § 19-16; Code 1995, § 62-17)

#### **Sec. 62-18. Drivers of government vehicles.**

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of

the United States government, this state, county or city, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute. (Code 1966, § 19-17; Code 1995, § 62-18)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 542.002.

### **Sec. 62-19. Authorized emergency vehicles.**

(a) The provisions of this chapter regulating the operation, parking and standing of vehicles shall apply to authorized emergency vehicles, except as provided in this section.

(b) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated in this section.

(c) The driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this chapter.
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- (3) Exceed the maximum speed limits so long as he does not endanger life or property.
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(d) The exemptions granted under subsections (b) and (c) of this section to the driver of an authorized emergency vehicle apply only when the driver of the vehicle is making use, at the discretion of the driver, in accordance with policies of the department or the local government that employs the driver, of audible or visual signals meeting the requirements of Vernon's Ann. Civ. St. art. 6701d, § 124, except as provided by subsection (e) of this section and except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle. A police officer who is the driver of an authorized emergency vehicle used for law enforcement purposes may operate without using the emergency warning devices required by this subsection only when the officer is:

- (1) Responding to an emergency call or when the officer is in pursuit of a suspected violator of the law and the officer has probable cause to believe that:
  - a. Knowledge of the presence of the officer will cause the suspect to destroy or lose evidence of a suspected felony;
  - b. Knowledge of the presence of the officer will cause the suspect to cease a suspected continuing felony before the officer has acquired sufficient evidence to establish grounds for arrest;
  - c. Knowledge of the presence of the officer will cause the suspect to evade apprehension or identification of the suspect or the suspect's vehicle; or

d. Traffic conditions on a multilaned roadway are such that movements of motorists in response to the emergency warning devices may increase the potential for a collision or may unreasonably extend the duration of the pursuit.

(2) In compliance with written regulations relating to the use of emergency warning devices adopted by the department or by the local government that employs the officer.

(e) The exemptions granted by subsection (b) of this section apply to a private vehicle operated as an authorized emergency vehicle by a volunteer firefighter only when the vehicle is making use of visual signals meeting the standards of state law.

(Code 1966, § 19-18; Code 1995, § 62-19)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 542.003.

### **Sec. 62-20. Giving false information in promise to appear for traffic violation.**

It shall be unlawful for any person, when giving a written promise to appear, or when given a written notice by any police officer to appear before the municipal court to answer for an offense against any traffic law of this state, or any provision of this chapter or other traffic ordinance of the city, to give an assumed or fictitious name or a false place of residence or address, or any other than the true name and the true place of his residence or address, upon the request of such officer.

(Code 1966, § 19-19; Code 1995, § 62-20)

### **Sec. 62-21. Drivers' records to be kept.**

The police department shall maintain a suitable record of all traffic accidents, arrests, convictions and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned. Such records shall be maintained complete for at least the most recent five-year period.

(Code 1966, § 19-20; Code 1995, § 62-21)

### **Sec. 62-22. Records of traffic violations.**

(a) The police department and the judge of the municipal court shall keep a record of all violations of this chapter and other traffic ordinances of the city and of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. The record shall be so maintained as to show all types of violations and the total of each. The record shall be maintained complete for at least the most recent five-year period.

(b) All forms for records of traffic violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.

(c) All such records shall be public records.

(Code 1966, § 19-21; Code 1995, § 62-22)

### **Sec. 62-23. Junked motor vehicle.**

(a) *Definitions.* For the purposes of this section, the following phrases, terms, words and their derivations shall have their meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future. Words used in the plural number include the singular number. Words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

*Antique vehicle* means a motor vehicle 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.

*Junked motor vehicle* means a vehicle that is self-propelled and:

- (1) Does not have lawfully attached to it:
  - a. An unexpired license plate; or
  - b. A valid motor vehicle inspection certificate; and
- (2) Is:
  - a. Wrecked, dismantled or partially dismantled, or discarded; or
  - b. Inoperable and has remained inoperable for more than:
    - i. Seventy-two consecutive hours, if the vehicle is on public property; or
    - ii. Thirty consecutive days, if the vehicle is on private property.

*Person* means any individual, firm, corporation, partnership, association, company or organization of any kind.

*Special interest vehicle* means a motor vehicle of any age that has not been altered or modified from the original manufacturer's specifications, and because of its historic interest, is being preserved by hobbyists.

(b) *Junked motor vehicle and parts of junked motor vehicles declared a public nuisance.* Junked motor vehicles or parts of junked motor vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute attractive nuisances creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the state by producing urban blight which is adverse to the maintenance and continuing development of the city. Such vehicles or parts of vehicles are, therefore, declared to be a public nuisance provided that this section shall not apply with regard to the following:

- (1) Any motor 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) Any motor 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.
- (3) Any motor vehicle or part thereof located in an appropriate storage place or depository maintained at a location specifically designated, and in a manner approved by the city.
- (4) Any operable or inoperable antique or special interest vehicle stored by a collector on the collector's property if the motor vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a screen fence, trees, shrubbery, or other means authorized by the city council.

(c) *Notice to owner or occupant to abate public nuisance on private or public property.* Whenever any such public nuisance exists on private property, public property, or on a public right-of-way within the city, in violation of subsection (b) of this section, the chief of police, or his duly authorized agent, shall notify the last known registered owner of the junked motor vehicle, any lienholder of record and the owner or occupant of the premises on which the public nuisance exists, and in the case of public right-of-way, the owner or occupant of the premises adjacent to the public right-of-way. Such notice shall be in writing and must state the nature of the public nuisance, that it must be removed and abated not later than the tenth day after the date on which the notice was mailed, and that a request for a hearing before the city council must be made before the expiration of the ten-day period. This notice must be mailed, by certified mail with a five day return receipt requested, to the last known registered owner of the junked motor vehicle, any lienholder of record, and the owner or occupant of the premises on which the public nuisance exists, and in the case of a public right-of-way, the owner or occupant of the premises adjacent to the public right-of-way. If the notice is returned undelivered by the United States post office, the chief of police or his duly authorized agent shall affix a tag to said junked motor vehicle. Said tag shall state that said junked motor vehicle is a public nuisance, that it must be removed and abated within ten days and that a request for a hearing before the city council must be made before the expiration of the ten-day period.

(d) *Reconstruction.* A junked motor vehicle shall not be reconstructed or made operable after it has been removed.

(e) *Notice to highway department.* The chief of police or his duly authorized agent shall give notice to the State Department of Highways and Public Transportation not later than the fifth day after the date of removal of the junked motor vehicle or part thereof. Said notice shall identify the vehicle or vehicle part.

(f) *Public hearing.* Not later than the tenth day after the date on which the notice to abate the nuisance was mailed, the owner or occupant of the public or private premises, or the owner or occupant of the public right-of-way on which the vehicle is located, may request a public hearing. The hearing shall be held before the city council. An order requiring the removal of a vehicle or vehicle part shall include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(g) *Administration.* The administration of this act shall be by regularly salaried, full-time employees of the city, except that the removal of the junked motor vehicle or junked motor vehicle part may be by any duly

authorized person.

(h) *Municipal court.* If the nuisance is not removed and abated, and a hearing is not requested before the city council within the ten-day period provided by subsection (c) of this section, a complaint concerning this public nuisance is to be filed in the municipal court of the city. If it is determined that the defendant is in violation of this article, the defendant shall be deemed guilty of a misdemeanor and subject to a fine in accordance with the penalty provision of subsection (l) of this section. The judge of the municipal court shall then further order said defendant to remove and abate the nuisance within ten days, the same being a reasonable time. If the defendant shall fail to remove and abate the nuisance within the ten-day period ordered by the judge, the judge may issue an order directing the chief of police to have the nuisance removed and the chief of police or his duly authorized agent shall take possession of the junked motor vehicle or part thereof and remove it from the premises. The order shall include a description of the vehicle and the correct identification number and license number of the vehicle, if the information is available at the site.

(i) *Removal with permission of owner or occupant.* Within ten days after receipt of notice to abate the nuisance, as herein provided, the owner or occupant of the premises may give his written permission to the chief of police or his duly authorized agent for removal of the junked motor vehicle, or parts thereof, from the premises. The giving of such permission shall be considered compliance with the provisions of this article. Cost of removal will be borne by the city. The city may offset the cost of removal with any funds received as scrap value of the vehicle.

(j) *Disposal of junked motor vehicles.* A junked motor vehicle, or part thereof, may be disposed of by removal to a scrap yard, demolisher, or any suitable site operated by the city for processing as scrap or salvage. The city may operate a disposal site if the city council determines by resolution that commercial channels of disposition are not available or are inadequate, and it may make final disposition of the junked motor vehicle or parts thereof, or the city may transfer the junked motor vehicle, or parts thereof, to another disposal site if the disposal is only as scrap or salvage.

(k) *Authority to enforce.* The chief of police or his duly authorized agent may enter private property for the purposes specified in this section to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of the vehicle or vehicle part that constitutes the nuisance. The municipal court judge may issue orders necessary to enforce this section.

(l) *Penalty.* Anyone violating this section shall be guilty of a misdemeanor and upon conviction shall be fined pursuant to the general penalty set out in section 1-10 of this Code of Ordinances. (Code 1995, § 62-23; Ord. No. 00-214, 2-14-2000; Amd. of 11-12-2001)

**State Law References:** Abatement of nuisance of junked motor vehicles, V.T.C.A., Transportation Code §§ 683.071--683.078.

## **Sec. 62-24. Closure of city streets and use of city park.**

(a) For the traditional events within the city, (which are Western Weekend, Dogwood Weekend, Christmas on the Square and Martin Luther King Day), the city administrator with the assistance of the chief of police and public works director may designate the streets, or portions thereof, to be closed for the duration of the events requiring street closures. For all other events, the sponsor or organizer of the event shall apply to the city secretary to be placed on the next following agenda of the city council and request approval by the city council for the closure of any public streets needed to stage the proposed event. Such application to the city

secretary shall include, at a minimum, the following:

Name of the event:

Sponsor(s) of the event:

Purpose of the event:

Dates of the event:

Accommodations requested of the city (such as street closures, garbage barrels, etc.):

All such applications shall be made to the city secretary no less than 30 days prior to the date of the event to assure that adequate time exists to hold a city council meeting to consider the application.

(b) Any person desiring to schedule an event at any city park must make application to the city council for a permit. Application for the permit shall be presented by the sponsors of the event to the city council for its approval at a scheduled meeting prior to the event. There shall be no fee for such permit. When a permit is issued under this subsection, the city council shall designate the hours and days for such use. (Amd. of 6-9-2003; Ord. No. 20080324, § 1, 3-24-2008)

**Secs. 62-25--62-60. Reserved.**

## **ARTICLE II.**

### **OPERATION OF VEHICLES**

#### **Sec. 62-61. Driving on right side of roadway.**

Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.
- (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard.
- (3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.
- (4) Upon a roadway restricted to one-way traffic.

(Code 1966, § 19-32; Code 1995, § 62-61)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.051.

#### **Sec. 62-62. Passing vehicle proceeding in same direction.**

(a) Except as provided in section 62-64, the driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and if the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.

(b) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

- (1) Where sight restriction is such that the section of highway being traversed lies within a no passing zone as determined and marked in accordance with Vernon's Ann. Civ. St. art. 6701d, § 58;
- (2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing; or
- (3) When approaching within 100 feet of any bridge, viaduct or tunnel.

(Code 1966, § 19-33; Code 1995, § 62-62)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.053.

### **Sec. 62-63. Duty of driver of overtaken vehicle.**

Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(Code 1966, § 19-34; Code 1995, § 62-63)

### **Sec. 62-64. When overtaking on right permitted.**

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn.
- (2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction.
- (3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under

conditions permitting such movement in safety. In no event shall such movement be made by driving off the main-traveled portion of the roadway except as provided by state law.

(Code 1966, § 19-35; Code 1995, § 62-64)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.057.

### **Sec. 62-65. Passing vehicle proceeding in opposite direction.**

Drivers of vehicles proceeding in opposite directions shall pass each other to the right and, upon streets having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main-traveled portion of the street, as nearly as possible.

(Code 1966, § 19-36; Code 1995, § 62-65)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.052.

### **Sec. 62-66. Required position and method of turning at intersections.**

The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the righthand curb or edge of the roadway.
- (2) *Left turns.* The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme lefthand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable on a street or roadway that has been designated for two-way traffic, the left turn shall be made in that portion of the intersection to the left of the center of the intersection. If the driver of a vehicle is approaching an intersection with a street or roadway that has been designated and signposted for one-way traffic from a street or roadway that has been designated and signposted for one-way traffic, the driver shall make the left turn as close as practicable to the lefthand curb or edge of the roadway.

(Code 1966, § 19-37; Code 1995, § 62-66)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.151.

### **Sec. 62-67. Prohibited turns at intersections.**

(a) The city administrator is hereby authorized, subject to approval by the city council, to determine those intersections at which drivers of vehicles shall not make a right or 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 the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

(b) Whenever authorized signs are erected indicating that no right or left turn or U-turn is permitted, no driver of a vehicle shall disobey the directions of such signs.

(Code 1966, § 19-38; Code 1995, § 62-67)

### **Sec. 62-68. U-turns.**

No U-turn shall be made by the driver of any vehicle at any intersection where electric traffic control or stop signs are in operation. U-turns are prohibited between intersections, but may be made at intersections where no such traffic control devices are in operation, unless such turn is prohibited as provided in section 62-67. Turning from a parked position to the left between intersections to travel in the opposite direction is hereby defined as a U-turn, within the meaning of this section.  
(Code 1966, § 19-39; Code 1995, § 62-68)

**State Law References:** Turning on curve or crest of grade prohibited, V.T.C.A., Transportation Code § 545.102.

#### **Sec. 62-69. Left turns between intersections.**

The driver of a vehicle shall turn left between intersections only when the left turn does not retard or interfere with traffic in either direction.  
(Code 1966, § 19-40; Code 1995, § 62-69)

#### **Sec. 62-70. Cutting across certain property prohibited.**

No person driving a vehicle shall cross a sidewalk or drive through a driveway, parking lot or business or residential entrance without bringing the vehicle to a complete stop. No person driving a vehicle shall cross, drive in or on such sidewalks, driveways, parking lots or entrances at an intersection for the purpose of making either a right or left turn from one street or highway to another street or highway.  
(Code 1966, § 19-41; Code 1995, § 62-70)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.423.

#### **Sec. 62-71. Stopping and turning signals.**

(a) When any other traffic may be affected by such movement, no person shall turn any vehicle without giving a signal of his intention to turn right or left. Such signal shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(b) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear, when there is opportunity to give such signal.

(c) Any stop or turn signal when required in this section shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (d) of this section.

(d) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds 24 inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.  
(Code 1966, § 19-42; Code 1995, § 62-71)

**State Law References:** Signals by hand-and-arm or signal lamps, V.T.C.A., Transportation Code § 545.106.

#### **Sec. 62-72. Manner of giving signals with hand and arm.**

(a) All signals required in this article given by hand and arm shall be given from the left side of the

vehicle in the following manner and such signals shall indicate as follows:

- (1) *Left turn.* Hand and arm extended horizontally.
- (2) *Right turn.* Hand and arm extended upward, except that a bicycle operator may signal from the right side of the vehicle with hand and arm extended horizontally.
- (3) *Stop or decrease speed.* Hand and arm extended downward.

(b) The required signals shall be given either by means of the hand and arm, or by a signal lamp or signal device approved by the department.

(Code 1966, § 19-43; Code 1995, § 62-72)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.107.

### **Sec. 62-73. Right-of-way at intersections generally.**

The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different street or highway. When two vehicles enter an intersection which is not controlled by a traffic sign or device from different streets at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. When two vehicles approach one another on the same street going in opposite directions and the driver of one of the vehicles desires to turn off such street, the vehicle which continues on the street in the original direction has the right-of-way over the turning vehicle. If both drivers desire to turn off, then the vehicle turning to the right has the right-of-way over the vehicle turning to the left.

(Code 1966, § 19-44; Code 1995, § 62-73)

### **Sec. 62-74. Right-of-way at intersections when turning left.**

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but such driver, having so yielded and having given a signal when and as required by this article, may make such left turn, and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn.

(Code 1966, § 19-45; Code 1995, § 62-74)

### **Sec. 62-75. Yield right-of-way signs.**

The city administrator, as authorized from time to time by the city council, may install and maintain yield right-of-way signs at intersections. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. If such a driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right-of-way.

(Code 1966, § 19-46; Code 1995, § 62-75)

### **Sec. 62-76. Limitations on backing.**

(a) The driver of a vehicle shall not back the vehicle unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back the vehicle upon any shoulder or roadway of any controlled access highway.

(Code 1966, § 19-47; Code 1995, § 62-76)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.415.

### **Sec. 62-77. One-way streets and alleys.**

(a) Whenever any resolution or ordinance of the city council designates any one-way street or alley, the city administrator shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(b) Upon those streets and parts of streets and in those alleys which are designated as one-way streets or alleys, vehicular traffic shall move only in the indicated direction where signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(Code 1966, § 19-48; Code 1995, § 62-77)

### **Sec. 62-78. Driving on divided highways.**

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the righthand roadway unless directed or permitted to use another roadway by official traffic control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in the physical barrier or dividing section or space or at a crossover or intersection as established by public authority.

(Code 1966, § 19-49; Code 1995, § 62-78)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.063.

### **Sec. 62-79. Operation of vehicles on approach of authorized emergency vehicles.**

(a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of V.T.C.A., Transportation Code §§ 547.305 and 547.702, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the righthand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Code 1966, § 19-50; Code 1995, § 62-79)

### **Sec. 62-80. Overtaking and passing school bus.**

(a) The driver of a vehicle upon a highway inside or outside of a business or residence district upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any schoolchildren shall stop the vehicle before reaching such school bus when there is in operation on the school bus a visual signal as specified in V.T.C.A., Transportation Code § 547.305, and the driver shall not proceed until the school bus resumes motion or is signaled by the school bus driver to proceed or the visual signals are no longer actuated.

(b) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(c) An offense under this section is punishable by a fine of not less than \$200.00 and not more than \$1,000.00.

(d) On conviction of a person of a second or subsequent offense under this section, the court may order that the person's driver's license be suspended for a period of up to six months beginning on the date of conviction. In this subsection, the term "driver's license" has the meaning assigned by V.T.C.A., Transportation Code § 521.001.

(e) If a person fails to pay a previously assessed fine or costs on a conviction under this section, or is determined by the court to have insufficient resources or income to pay a fine or costs on a conviction under this section, the court may order the person to perform community service. The court shall set the number of hours of service under this subsection.

(Code 1966, § 19-51; Code 1995, § 62-80)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.066.

### **Sec. 62-81. Obstructing traffic generally.**

It shall be unlawful for any person to stop, drive or propel a vehicle in such manner as to block or obstruct the traffic on any street or alley of the city.

(Code 1966, § 19-52; Code 1995, § 62-81)

### **Sec. 62-82. Obstructing intersection or crosswalk.**

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Code 1966, § 19-53; Code 1995, § 62-82)

### **Sec. 62-83. Following too closely.**

The driver of a motor vehicle shall, when following another vehicle, maintain an assured clear distance between the two vehicles, exercising due regard for the speed of such vehicles, traffic upon and conditions of the street or highway, so that such motor vehicle can be safely brought to a stop without colliding with the preceding vehicle, or veering into other vehicles, objects or persons on or near the street or highway.

(Code 1966, § 19-54; Code 1995, § 62-83)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.062.

#### **Sec. 62-84. Following fire apparatus or ambulance.**

(a) The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where the fire apparatus has stopped to answer a fire alarm.

(b) No driver of a vehicle, except a driver on official business, may follow closer than 500 feet behind an ambulance when the flashing red lights of the ambulance are operating. No driver of a vehicle may drive or park his vehicle at a place where an ambulance has been summoned for an emergency call in a manner calculated to interfere with the arrival or departure of the ambulance.

(Code 1966, § 19-55; Code 1995, § 62-84)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.407.

#### **Sec. 62-85. Crossing fire hose.**

No driver of a vehicle shall drive over an unprotected hose of a fire department when laid down on any street, private driveway or street car track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(Code 1966, § 19-56; Code 1995, § 62-85)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.408.

#### **Sec. 62-86. Driving in processions.**

Each driver in a funeral or other procession shall drive as near to the righthand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(Code 1966, § 19-57; Code 1995, § 62-86)

#### **Sec. 62-87. Driving between vehicles of a procession.**

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously identified. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

(Code 1966, § 19-58; Code 1995, § 62-87)

#### **Sec. 62-88. Driving on sidewalk.**

No person shall drive any motor vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

(Code 1966, § 19-59; Code 1995, § 62-88)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.422.

#### **Sec. 62-89. Driving through safety zone.**

No driver of any vehicle shall, at any time, drive through or within a safety zone.

(Code 1966, § 19-60; Code 1995, § 62-89)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.403.

**Sec. 62-90. Driving on fresh pavement.**

It shall be unlawful for any person to drive any vehicle upon any portion of the streets in the city that has been freshly paved, unless all barriers or signal lights have been lawfully removed therefrom indicating that the street is ready for travel.

(Code 1966, § 19-62; Code 1995, § 62-91)

**Sec. 62-91. Spinning or sliding wheels.**

No person shall start or stop a vehicle in such manner as to cause the wheels to spin or slide, except when necessary to prevent an accident.

(Code 1966, § 19-63; Code 1995, § 62-92)

**Sec. 62-92. Heavy vehicles; truck route.**

It shall be unlawful for any person to drive and operate a truck weighing more than 27,000 pounds, including its cargo, or for the owner of such a vehicle to allow it to be driven and operated upon any street of the city other than Magnolia Street, Pine Street and Bluff Street; provided, however, that no such vehicle shall be prohibited from using any street in the city for the purpose of going directly to or from any residential or commercial establishment abutting on such a city street for the purpose of delivering or picking up materials or merchandise at such establishment. However, any operator or owner of such a truck being operated for the purpose of delivering or picking up such materials or merchandise or for emergency repair shall be liable to the city for any damage done by such truck to any street, bridge or culvert in the city and the use of any such street for such purpose shall be conclusive evidence that the operator as well as the owner of the truck have agreed to pay and will pay, jointly or severally, the costs of repairing all such damages upon demand therefor made by the city. No such vehicle weighing more than 27,000 pounds shall be prohibited from being driven to a repair shop or residence for an emergency mechanical repair or from traveling on Dogwood Street from U.S. Highway 69 East to reach the public scales.

(Code 1995, § 62-93; Ord. No. 90-05, § I, 6-11-1990)

**Secs. 62-93--62-120. Reserved.**

**ARTICLE III.**

**TRAFFIC CONTROL DEVICES\***

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\* **State Law References:** Authority of city to regulate traffic by means of traffic control devices and signals, V.T.C.A., Transportation Code § 542.202(a)(1).

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**Sec. 62-121. Conformity with manual and specifications of department of transportation; uniformity.**

All traffic control signs, signals and devices shall conform to the manual and specifications approved by the state department of transportation. All signs and signals required under this article for a particular purpose

shall, so far as practicable, be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic control devices.

(Code 1966, § 19-74; Code 1995, § 62-121)

**Sec. 62-122. Designation of crosswalks and safety zones; marking of traffic lanes.**

The city administrator is hereby authorized to:

- (1) Designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at any intersection where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.
- (2) Establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.
- (3) Mark lanes for traffic on street pavements at such places as he may deem advisable, consistent with this chapter and other traffic ordinances of this city.

(Code 1966, § 19-75; Code 1995, § 62-122)

**Sec. 62-123. Obedience to devices.**

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with this article and other traffic ordinances of this city, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

(Code 1966, § 19-76; Code 1995, § 62-123)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 544.004.

**Sec. 62-124. Necessity of traffic control devices.**

No provision of this article for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(Code 1966, § 19-77; Code 1995, § 62-124)

**Sec. 62-125. Installation of traffic lights.**

The city administrator, as authorized by the city council from time to time, shall designate intersections at which traffic shall be controlled by electric traffic control signals or lights and shall cause such signals or lights to be installed and maintained at such intersections.

(Code 1966, § 19-78; Code 1995, § 62-125)

**Sec. 62-126. Traffic control signal legend.**

Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored

lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) *Green indication.*

- a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn; but, vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- c. Unless otherwise directed by a pedestrian control signal, as provided in section 62-127, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Steady yellow indication.*

- a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
- b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in section 62-127, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) *Steady red indication.*

- a. Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but, if none, before entering the crosswalk on the near side of the intersection, and may then turn right or, if the intersecting streets are both one-way streets and left turns are permissible, may turn left, after standing until the intersection may be entered safely, yielding right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection. Traffic not so turning shall remain standing until an indication to proceed is shown. The city may prohibit such turns on a steady red signal by posting a notice that turns of that type are prohibited. Such notice shall be erected at such intersection giving notice thereof.
- b. Unless otherwise directed by a pedestrian control signal as provided in section 62-127,

pedestrians facing a steady red signal alone shall not enter the roadway.

- (4) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(Code 1966, § 19-79; Code 1995, § 62-126)

#### **Sec. 62-127. Pedestrian control signals.**

Whenever special pedestrian control signals exhibiting the words "walk," "don't walk" or "wait" are in place such signals shall indicate as follows:

- (1) *Walk.* Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (2) *Don't walk or wait.* No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "walk" signal shall proceed to a sidewalk or safety island while the "don't walk" or "wait" signal is showing.

(Code 1966, § 19-80; Code 1995, § 62-127)

#### **Sec. 62-128. Flashing signals.**

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

- (1) *Flashing red (stop signal).* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through an intersection or past such signal only with caution.

(Code 1966, § 19-81; Code 1995, § 62-128)

#### **Sec. 62-129. Ratification of existing devices.**

All traffic control signs, signals, devices and markings placed or erected prior to the effective date of this Code by the city and in use for the purposes of regulating, warning or guiding traffic are hereby affirmed, ratified and declared to be official traffic control devices, provided such traffic control devices are not inconsistent with the provisions of this article or state law.

(Code 1966, § 19-82; Code 1995, § 62-129)

**Sec. 62-130. Unauthorized signs, signals, markings.**

(a) No person shall place, maintain or display upon or in view of any road, street or highway any unauthorized sign, signal, marking or device which purports to be or is an imitation or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad signal or sign. No person shall place or maintain nor shall any public authority permit upon any highway or street any traffic signal or sign bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection, upon private property adjacent to streets or highways, of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) In addition to being a misdemeanor, every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the city is hereby empowered to remove them or cause them to be removed without notice.

(Code 1966, § 19-83; Code 1995, § 62-130)

**State Law References:** Similar provisions, Vernon's Ann. Civ. St. art. 6701d, § 36.

**Secs. 62-131--62-150. Reserved.**

**ARTICLE IV.**

**SPEED**

**Sec. 62-151. Maximum limits generally.**

(a) No person shall operate or drive any vehicle on any alley within the city at a greater speed than 15 miles per hour, or on any other street within the city at a greater speed than 30 miles per hour, unless signs are erected designating another speed in accordance with this article.

(b) Notwithstanding any other provisions of this article, no person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the street in compliance with legal requirements and the duty of all persons to use due care.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (b) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(Code 1966, § 19-95; Code 1995, § 62-151)

**State Law References:** Safe speed required, V.T.C.A., Transportation Code § 545.351.

**Sec. 62-152. Maximum limits near schools, churches and hospitals.**

Except where otherwise provided by signs, the maximum speed limit within the same block of any

school, church or hospital shall be 20 miles per hour, and, when signs are erected as provided in section 62-154, it shall be unlawful for any person to drive any vehicle at a speed greater than such limit. Ordinances establishing other speed limits at such locations are incorporated in this section by reference.  
(Code 1966, § 19-96; Code 1995, § 62-152)

**Sec. 62-153. Minimum limits.**

No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.  
(Code 1966, § 19-98; Code 1995, § 62-153)

**Sec. 62-154. Speed limit signs.**

Whenever the speed limit of 30 miles per hour, as prescribed by section 62-151, is, by the provisions of this article or other ordinance of the city council, increased or decreased at any intersection or other place or upon any part of a street, the city secretary shall erect appropriate signs giving notice of such speed limit, and no such limit shall be effective unless such signs are erected at such intersection or other place or part of such street. Ordinances establishing other speed limits are incorporated in this section by reference.  
(Code 1966, § 19-99; Code 1995, § 62-154)

**Sec. 62-155. Exemptions from article.**

The provisions of this article regulating speeds of vehicles shall not apply to authorized emergency vehicles responding to calls, nor to police patrols, nor to physicians and/or ambulances responding to emergency calls, provided that incorporated cities and towns may by ordinance regulate the speed of ambulances, emergency medical services vehicles, and authorized emergency vehicles operated by blood banks or tissue banks.  
(Code 1966, § 19-100; Code 1995, § 62-155)

**Secs. 62-156--62-180. Reserved.**

**ARTICLE V.**

**STOPPING, STANDING AND PARKING\***

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\* **State Law References:** Authority of city to regulate stopping, standing and parking of vehicles, V.T.C.A., Transportation Code § 542.202(a)(2).

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**Sec. 62-181. Definitions.**

The following words, terms and phrases, when used in sections 62-194 through 62-196, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a highway or street, except devices moved by human power.

(Code 1966, §§ 19-123.1(a), 19-123.2(a), 19-123.3(a); Code 1995, § 62-181)

**Sec. 62-182. Unattended motor vehicle.**

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway. (Code 1966, § 19-111; Code 1995, § 62-182)

**Sec. 62-183. Prohibited in specified places.**

(a) Except as provided by subsections (c) and (d) of this section and except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

- (1) Stop, stand or park a vehicle:
  - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
  - b. On a sidewalk.
  - c. Within an intersection.
  - d. On a crosswalk.
  - e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the governing body of any incorporated city, town or village indicates a different length by signs or markings.
  - f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
  - g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
  - h. On any railroad track.
  - i. At any place where official signs prohibit stopping.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
  - a. In front of a public or private driveway.
  - b. Within 15 feet of a fire hydrant.
  - c. Within 20 feet of a crosswalk at an intersection.

- d. Within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic control signal located at the side of a roadway.
- e. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly signposted).
- f. At any place where official signs prohibit standing.

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

- a. Within 50 feet of the nearest rail of a railroad crossing.
- b. At any place where official signs prohibit parking.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(c) A person may stop, stand or park a bicycle on a sidewalk if the bicycle does not impede the normal and reasonable movement of pedestrian or other traffic on the sidewalk.

(d) Private vehicles operated by elevator constructors responding to an elevator emergency shall be exempt from the restrictions of subsections (a)(1)a, e, f and i, (2), and (3) of this section.  
(Code 1966, § 19-112; Code 1995, § 62-183)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.302.

#### **Sec. 62-184. Prohibited for certain purposes.**

No person shall stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying it for sale.
- (2) Washing, greasing, filling with gas or oil or repairing such vehicle, except repairs necessitated by an emergency.

(Code 1966, § 19-113; Code 1995, § 62-184)

#### **Sec. 62-185. Ten feet of roadway to be left available for traffic.**

No person shall stop, stand or park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of the width of either lane of a roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals or a police officer.

(Code 1966, § 19-114; Code 1995, § 62-185)

#### **Sec. 62-186. Stop intersections.**

(a) The city council may designate any street intersection as a stop intersection and designate the streets upon which vehicles shall stop before entering such intersections. Whenever any intersection has been so designated, the city administrator shall cause the same to be identified by the erection of stop signs indicating which vehicles approaching the intersection shall stop.

(b) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(Code 1966, § 19-115; Code 1995, § 62-186)

**State Law References:** Authority of city to designate stop intersections, V.T.C.A., Transportation Code § 545.202(a)(2).

#### **Sec. 62-187. Stop required when emerging from alley, driveway or building.**

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Code 1966, § 19-116; Code 1995, § 62-187)

#### **Sec. 62-188. Designation, marking of parking spaces and areas where parking is prohibited or limited.**

(a) The city administrator shall cause parking spaces to be maintained and marked off in and on such streets and parts thereof as may be designated by the city council from time to time and he shall cause spaces in which parking is prohibited to be maintained and marked off in and on such streets and parts thereof as may be designated by the city council from time to time. The city administrator shall also cause time limit parking areas to be maintained and marked off in and on such parts of streets as may be designated by the council from time to time. All such spaces or areas shall be clearly indicated by appropriate signs or markings on the pavement.

(b) In areas designated as time limit parking areas, parking may be limited to any period prescribed by the council, the same to be designated with clearly distinguishable markings or signs at both ends of the time limit area and at reasonable intervals between the beginning and ending of such time limit area, indicating the time allowed for parking in such area.

(c) Any time limit on parking established under this section shall apply on such days and between such hours as prescribed by the council.

(Code 1966, § 19-118; Code 1995, § 62-188)

#### **Sec. 62-189. Parking in prohibited areas; overtime parking.**

It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in his name or owned or operated by him or in his possession or under his control to be or remain in any space or area in which parking is prohibited as provided in section 62-188, or in a time limit parking area for a longer period of time than that designated by the markings on the street or by signs clearly visible.

(Code 1966, § 19-119; Code 1995, § 62-189)

**Sec. 62-190. Parallel and angle parking.**

(a) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the righthand wheels of the vehicle within 18 inches of the curb or edge of the roadway, except as otherwise provided in this section. On one-way streets, vehicles may be parked on the left side of the street, with the lefthand wheels within 18 inches of the curb or edge of the roadway, unless signs prohibit such parking.

(b) The city administrator, with the approval of the city council, shall determine upon which streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal-aid or state highway within this city unless the state highway engineer has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any railway tracks.

(c) Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. Whenever parking spaces are marked by lines on the pavement, whether for parallel or angle parking, a vehicle must be parked entirely within the lines of the parking space.

(Code 1966, § 19-120; Code 1995, § 62-190)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 545.303.

**Sec. 62-191. Parking or standing in alleys.**

No person shall park a vehicle within an alley in such a manner or under such conditions as to have available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

(Code 1966, § 19-121; Code 1995, § 62-191)

**Sec. 62-192. Overnight parking.**

Overnight parking for storage on any paved street is hereby prohibited. The term "overnight parking for storage" is defined as the habitual parking or storing of cars, trucks, tractors or other vehicles on paved streets during the hours from sundown to sunup, except temporarily disabled vehicles which are protected by flares or other approved signal devices. It is not the intention of this section to prohibit or interfere with passenger cars temporarily parked at night, where such parking is not done regularly and during the entire night.

(Code 1966, § 19-122; Code 1995, § 62-192)

**Sec. 62-193. Limitation on parking certain vehicles on Magnolia and Bluff Streets.**

It shall be unlawful for any person to park any vehicle which is more than 17 feet in length for more than 30 minutes at any one time at any place on North Magnolia Street, South Magnolia Street, East Bluff Street or West Bluff Street.

(Code 1966, § 19-123; Code 1995, § 62-193)

**Sec. 62-194. Parking on U.S. Highway 190 within the city limits.**

No person shall park a vehicle on the U.S. Highway 190 within the city limits for more than 30 minutes except that parking shall be allowed in designated areas for a maximum period of two hours between the hours of 8:00 a.m. and 5:00 p.m. on U.S. Highway 190 between its intersection with Highway 69 and the intersection of U.S. Highway 190 and Village Street.

(Code 1966, § 19-123.1(b); Code 1995, § 62-194)

**Sec. 62-195. Parking on U.S. Highway 69 within city limits.**

(a) It shall be unlawful for any person to park a vehicle on U.S. Highway 69 right-of-way within the city limits.

(b) Any person violating this section or any provision thereof shall upon conviction be guilty of a misdemeanor and shall be fined not less than \$10.00 or as set from time to time by the council. The vehicles shall be removed at the owner's expense.

(Code 1966, § 19-123.2(b), (c); Code 1995, § 62-195; Ord. of 4-12-1993)

**Sec. 62-196. Certain vehicles to display flares when parked.**

Any vehicle more than 17 feet in length shall continuously display flares on the traffic side of the vehicle at its front and rear when parked on any public street within the city limits.

(Code 1966, § 19-123.3(b); Code 1995, § 62-196)

**Sec. 62-197. Loading and unloading.**

All freight trucks shall be and are hereby required to be loaded and unloaded from the alley entrance, if practicable. Where conditions are such as to make the loading or unloading thereof from an alley impracticable, such trucks shall be parked on the street in accordance with all applicable provisions of this article.

(Code 1966, § 19-124; Code 1995, § 62-197)

**Sec. 62-198. Designation and use of curb loading zones.**

(a) The city administrator is hereby authorized, subject to approval by the city council, to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable, where, in his opinion, the dimensions of the streets and sidewalks, the flow of traffic and the use of property abutting the streets are such that he finds it to be necessary for the free flow and expeditious handling of traffic and the safety of persons and property.

(b) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zones are effective, and then only for a period not to exceed three minutes.

(c) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.  
(Code 1966, § 19-126; Code 1995, § 62-199)

**Sec. 62-199. Impoundment of standing or parked vehicles.**

(a) Members of the police department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage or parking lot designated or maintained by the police department or otherwise maintained by the city, under the following circumstances:

- (1) When a vehicle upon a roadway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.
- (2) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.
- (3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite obstruction to employees of the city engaged in cleaning the street upon which the vehicle is illegally parked, or when any vehicle is illegally parked and constitutes an obstruction to the progress of construction or repair work on any of the city's water or sewer lines.
- (4) If a nonresident of the city has failed on more than one occasion to comply with notice attached to an illegally parked vehicle owned by him, and warrants have been issued for his arrest but not served because of his absence, his vehicle may be impounded as provided in this section, when such vehicle is next found left unattended upon a street and illegally parked.

(b) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the officer shall immediately give or cause to be given notice in writing to the owner of the fact of the removal and the reasons therefor and of the place to which the vehicle has been removed. If any such vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage.

(c) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as provided in this section, and if the vehicle is not returned to the owner within a period of three days, the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department of transportation. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

(d) If a vehicle is removed from a street under this section, the owner of the vehicle shall pay, in addition to the fine, if any, assessed against him, reasonable costs incurred in removing the vehicle from the street, and reasonable storage for the time the vehicle is stored in a garage or parking lot.  
(Code 1966, § 19-127; Code 1995, § 62-200)

**State Law References:** Removal of illegally parked vehicles, Vernon's Ann. Civ. St. art. 6701d, § 94.

**Sec. 62-200. Presumption that owner of vehicle committed violation.**

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, the violation occurred.

(Code 1966, § 19-128; Code 1995, § 62-201)

**Secs. 62-201--62-230. Reserved.**

**ARTICLE VI.**

**PEDESTRIANS\***

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\* **State Law References:** Local ordinances concerning pedestrians, V.T.C.A., Transportation Code § 552.009.

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**Sec. 62-231. Application of provisions.**

Pedestrians shall be subject to traffic control signals at intersections as provided in this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

(Code 1966, § 19-162; Code 1995, § 62-231)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 552.009.

**Sec. 62-232. Right-of-way in crosswalks.**

(a) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk, when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(Code 1966, § 19-163; Code 1995, § 62-232)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 552.003.

**Sec. 62-233. Duty to yield right-of-way when crossing roadway at other than crosswalk.**

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code 1966, § 19-164; Code 1995, § 62-233)

**Sec. 62-234. Roadway to be crossed at right angles; exception.**

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.  
(Code 1966, § 19-165; Code 1995, § 62-234)

**Sec. 62-235. Walking along roadways.**

(a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when possible walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(Code 1966, § 19-166; Code 1995, § 62-235)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 552.006.

**Sec. 62-236. Standing in roadway.**

A person may not stand in a roadway for the purpose of soliciting a ride, contributions, employment or business from the occupant of any vehicle, except that a person may stand in a roadway to solicit charitable contributions if authorized to do so by the local authority having jurisdiction over the roadway.

(Code 1966, § 19-167; Code 1995, § 62-236)

**Sec. 62-237. Drivers to exercise due care.**

Notwithstanding other provisions of this article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

(Code 1966, § 19-168; Code 1995, § 62-237)

**State Law References:** Similar provisions, V.T.C.A., Transportation Code § 552.008.

**Chapters 63--65**

**RESERVED**

## Chapter 66

### UTILITIES\*

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\* **State Law References:** Municipal utility systems, general powers, V.T.C.A., Local Government Code § 402.001 et seq.; municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Local Government Code § 13.042(a); plumbing and sewers, V.T.C.A., Local Government Code § 214.011 et seq.; water, V.T.C.A., Water Code § 1.001 et seq.; municipal water and utilities, V.T.C.A., Local Government Code § 401.001 et seq.; water quality control, V.T.C.A., Water Code § 26.001 et seq.

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Sec. 66-98. Continuing prohibited discharges after notice.

Sec. 66-99. Penalty.

Sec. 66-100. Failure to pay bill.

Sec. 66-101. Penalty for criminal mischief.

## ARTICLE I.

### IN GENERAL

#### Sec. 66-1. Connection fees.

(a) Tapping fees and criteria therefor for water, gas and sewer for the city shall be as provided from time to time by ordinance.

(b) The city administrator must approve any application for a meter above three-quarter-inch. Any meter above the two-inch size must be priced by the city administrator.  
(Code 1966, § 14-1; Code 1995, § 66-1; Ord. of 2-8-1993)

#### Sec. 66-2. Billing of service charges, delinquencies generally.

(a) Water, gas, garbage and sewer service charges shall be billed together on one bill. If any customer fails to pay such bill within 15 days after the due date, his service shall be discontinued.

(b) All water, gas, garbage and sewer service charges shall be billed by the city administrator to each customer in one bill. All such charges shall be paid within ten days after the due date. All accounts not paid within such period of time shall be classified as delinquent accounts. Water, gas, garbage and sewer service shall be discontinued to any customer failing to pay all water, gas, garbage and sewer service charges within 15 days after due date. Service may be restored after the entire bill is paid plus a reconnection fee of \$25.00.  
(Code 1966, § 14-7; Code 1995, § 66-2)

#### Sec. 66-3. Connections for or service to delinquents.

(a) *Delinquent service accounts.* No new water, gas, garbage or sewer connection shall be made by the city or by any employee of the city, and no water, gas, garbage or sewer service shall be restored by the city or any employee thereof after the service has been discontinued for any reason, to any building or structure located on any premises within or without the limits of the city, if the owner or lessee, as the case may be, of such premises is in any manner indebted to the city for gas, water, garbage or sewer services previously furnished to the premises or to any other premises owned or controlled by such property owner or lessee, or if the occupant of such premises is indebted to the city for any water, gas, garbage or sewer service theretofore furnished to such occupant at such premises or at any other premises, until such time as all such delinquent water, gas or sewer accounts have been fully paid and discharged.

(b) *Delinquent taxes and assessments.* Neither water, gas, garbage or sewer service shall be made available after such service has been discontinued for any reason or where such service has not been previously made available to any premises or any building or structure situated on any premises, if the owner or lessee, as the case may be, of such premises is indebted in any amount to the city with regard to delinquent ad valorem taxes or with regard to any assessment theretofore levied against the premises or against such owner or lessee or

against any other premises owned or controlled by such owner or lessee of such premises by the city, until such time as all such delinquent taxes and assessments have been fully paid and discharged.

(c) *Violation by city employee.* Any employee of the city making any water, gas, garbage or sewer connection or restoring water, gas or sewer service or transferring any meter accounts contrary to the provisions of this section shall be automatically suspended and shall be entitled to no salary or other benefits until such time as he shall be restored to his employment by the city council, unless the action taken by such employee has been theretofore approved, in writing, by the mayor and city administrator.  
(Code 1966, § 14-8; Code 1995, § 66-3)

**Sec. 66-4. Ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance pertaining to water and wastewater rates TDCJ, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.  
(Code 1995, § 66-4; Code 1995, § 66-4)

**Secs. 66-5--66-30. Reserved.**

**ARTICLE II.**

**WATER AND GAS SERVICE**

**Sec. 66-31. Meter required for each water and gas connection.**

Each connection to the city water system or to the city gas system shall be supplied with a separate water meter or gas meter, and the same meter shall not be used for more than one residence or apartment, except that, where requested by the property owner, all mobile homes in a trailer park and all apartments in one apartment building may be served by one water meter and all mobile homes in a trailer park may be served by one gas meter. The city administrator and the water and gas superintendent, or superintendents, are hereby authorized and required to inspect all water and gas connections for compliance with this section and to disconnect any connection where water or gas is being supplied to more than one family, one residence, one apartment or one mobile home from the same meter except as authorized in this section.  
(Code 1966, § 14-3; Code 1995, § 66-31)

**Sec. 66-32. Service charges for water service.**

The following monthly rates shall be charged for water service in the city:

<i>Inside City:</i>	
First 2,000 gallons or less	\$12.00 base rate
Over 2,001 gallons	\$3.00 per thousand
<i>Outside City:</i>	
First 2,000 gallons or less	\$20.00 base rate

Over 2,001 gallons	\$4.50 per thousand
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Or as set from time to time by the council by ordinance.  
 (Code 1966, § 14-4; Code 1995, § 66-33; Ord. No. 92-2, 8-24-1992; Ord. of 10-12-1992; Ord. of 9-13-1993; Ord. No. 97-02, 9-29-1997; Ord. No. 20040927-1, 9-27-2004; Ord. No. 20050411, 4-11-2005)

**Sec. 66-33. Service charges for gas service.**

The monthly rates to be charged by the city for natural gas service in the city and vicinity shall be as follows:

<i>Residents:</i>	
First 500 cubic feet	\$10.00 base rate
Over 500 cubic feet	\$2.50 over cost of gas
(Local residential tax, 1.50%)	
<i>Commercial:</i>	
First 500 cubic feet	\$12.00 base rate
Over 500 cubic feet	\$2.50 over cost of gas
(State gas tax, 6.75%)	

Or as set from time to time by the council by ordinance.  
 (Code 1966, § 14-6; Code 1995, § 66-34; Ord. of 9-13-1993; Ord. No. 20001112, 12-11-2000)

**Sec. 66-34. Water conservation and drought contingency plan.**

The city water conservation and drought contingency plan is hereby adopted and made a part of this section as fully as though copied in full.

(Code 1995, § 66-35; Ord. No. 88-11, 10-10-1988)

**Editors Note:** At the time of publication of the Code, the most recent drought contingency plan was adopted on August 14, 2000.

**State Law References:** Public water suppliers required by rule to develop drought contingency plans, V.T.C.A., Water Code, § 11.1272; drought contingency plans for municipal uses by public water suppliers, 30 Tex. Admin. Code § 288.20.

**Sec. 66-35. Reserved.**

**Sec. 66-36. Mandatory water and sewer service.**

(a) Where water and sewer service is deemed by the city to be available, it shall be required that all citizens owning buildings and residences shall connect to said systems. Said connections shall be made after payment of applicable fees and connections and shall be made in accordance with all applicable city codes. It shall be unlawful for a property owner to not seek the appropriate connection for city water and sewer.

(b) It shall hereafter be unlawful for any person to dig or drill a water well within the city.

(c) Any person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the provisions of section 1-10 of this Code.  
(Ord. No. 20110523, 5-23-2011)

**Secs. 66-37--66-55. Reserved.**

### **ARTICLE III.**

#### **SEWER SERVICE\***

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\* **State Law References:** Municipal power regarding sewers and privies, V.T.C.A., Health and Safety Code § 342.002.

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#### **DIVISION 1.**

#### **GENERALLY**

**Sec. 66-56. Sewer connection required; unlawful disposal of sewage.**

(a) It shall be unlawful for any person owning, renting, leasing or controlling, in whole or in part, any premises situated within the limits of the city to construct, use or maintain, or permit to be constructed, used, maintained or operated, on such premises any privy or dry closet for the reception of human excreta or to permit to be constructed, used or maintained on such premises any water closet, urinal basin, slop sink, slop drain, bathtub or water waste drain from any laundry, livery stable or any other receptacle whatever used or to be used for the purpose of receiving or removing sewerage matter or slop of any kind, unless it shall be connected to the city sanitary sewer system.

(b) It shall be unlawful for any landlord or property owner to lease, let or sublet or allow any person to occupy or for any person to occupy any house or dwelling unless access is provided to a sanitary water closet kept and maintained in a good and sanitary condition and connected to the sanitary sewer system of the city. It shall also be unlawful for any person to lease, let or sublet any building or premises or permit any building or premises owned or controlled by him to be occupied if any of the conditions made unlawful by the terms of this section exist with regard to such premises or building.

(c) It shall be unlawful for any person to throw out, deposit or bury within the city any excreta from human bodies, solid or liquid, or to dispose of such excreta in any manner other than into a properly sewered water closet.

(d) It shall be the duty of the health officer or his duly authorized assistant to enter all premises that may be necessary in the enforcement of this section and he is hereby so empowered at reasonable times.  
(Code 1966, § 14-2; Code 1995, § 66-56)

**State Law References:** Municipality may provide sanitary sewer system and require connections, V.T.C.A., Local Government Code § 214.003.

**Sec. 66-57. Service charges.**

The following monthly rates shall be charged for sewer service in the city:

	<i>Rate</i>
<i>Residential Inside City:</i>	
First 2,000 gallons or less	\$12.00 base rate
Over 2,001 to 12,500 gallons	\$3.00 per thousand gallons
<i>Residential Outside City:</i>	
First 2,000 gallons	\$20.00 base rate
Over 2,001 to 12,500 gallons	\$4.50 per thousand gallons
<i>Commercial Sewer:</i>	
First 2,000 gallons	\$17.50 base rate
Over 2,001 gallons	\$3.25 per thousand

Or as set from time to time by the council by ordinance.

(Code 1966, § 14-5; Code 1995, § 66-57; Ord. No. 92-2, 8-24-1992; Ord. of 10-12-1992; Ord. of 9-13-1993; Ord. No. 97-02, 9-29-1997; Ord. No. 20040927-1, 9-27-2004; Ord. No. 20050411, 4-11-2005)

**Secs. 66-58--66-75. Reserved.**

## DIVISION 2.

### SEWER USE\*

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\*Federal law reference--Local delegated pretreatment programs must effectively control and document wastewater discharge from certain industrial users to publicly owned treatment works, 40 CFR 403.8(f)(1)(iii); general pretreatment regulations, 40 CFR 403; categorical pretreatment regulations, 40 CFR 401-471.

**State Law References:** Local government authority to control waste discharges and require pretreatment, V.T.C.A., Water Code § 26.176.

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### **Sec. 66-76. Definitions.**

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

*Approving authority* means the city administrator or his duly authorized representative.

*BOD (biochemical oxygen demand)* means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees Celsius.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal (also called the house lateral and house connection).

*City* means the city or any authorized person acting in its behalf.

*COD (chemical oxygen demand)* means measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*Control manhole* means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

*Control point* means point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

*Garbage* means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce.

*Industrial waste* means waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, as distinct from normal wastewater.

*Industrial waste charge* means the charge made on those persons who discharge industrial wastes into the city's sewerage system.

*Milligrams per liter (mg/l)* means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Natural outlet* means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

*Normal domestic wastewater* means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 200 mg/l and BOD is not more than 200 mg/l.

*Overload* means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

*Person* means any individual and includes any corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association or other legal entity.

*pH* means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

*Public sewer* means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

*Slug* means any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

*Standard methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.

*Storm sewer* means a public sewer which carries stormwaters and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

*Stormwater* means rainfall or any other forms of precipitation.

*Superintendent* means the water and wastewater superintendent of the city or his duly authorized deputy, agent or representative.

*Suspended solids (SS)* means solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

*To discharge* includes to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

*Trap* means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

*Unpolluted wastewater* means water containing:

- (1) No free or emulsified grease or oil.
- (2) No acids or alkalis.
- (3) No phenols or other substances producing taste or odor in receiving water.
- (4) No toxic or poisonous substances in suspension, colloidal state or solution.
- (5) No noxious or otherwise obnoxious or odorous gases.

- (6) Not more than an insignificant amount in each mg/l of suspended solids and BOD, as determined by the state department of water resources.
- (7) Color not exceeding 50 units as measured by the platinum-cobalt method of determination as specified in standard methods.

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

*Wastewater* means a combination of the water-carried waste from residences, business buildings, institutions and industrial establishments, together with any groundwater, surface water and stormwater that may be present.

*Wastewater facilities* means all facilities for the collection, pumping, treating, and disposing of wastewater and industrial wastes.

*Wastewater service charge* means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

*Wastewater treatment plant* means any city-owned facilities, devices and structures used for receiving, processing and treating wastewater, industrial waste and sludges from the sanitary sewers.

*Watercourse* means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.  
(Code 1995, § 66-76; Ord. of 3-12-1984, § 1)

#### **Sec. 66-77. Prohibited discharges generally.**

(a) No person may discharge to public sewers any waste which by itself or by interaction with other wastes may:

- (1) Injure or interfere with wastewater treatment processes or facilities;
- (2) Constitute a hazard to humans or animals; or
- (3) Create a hazard in receiving waters of the wastewater treatment plant effluent.

(b) All discharges shall conform to requirements of this division.  
(Code 1995, § 66-77; Ord. of 3-12-1984, § 2)

#### **Sec. 66-78. Chemical discharges.**

- (a) No discharge to public sewers may contain:
- (1) Cyanide greater than 1.0 mg/l.

- (2) Fluoride other than that contained in the public water supply.
- (3) Chlorides in concentrations greater than 250 mg/l.
- (4) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (5) Substances causing an excessive chemical oxygen demand (COD).
- (b) No waste or wastewater discharged to public waters may contain:
  - (1) Strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
  - (2) Fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius).
  - (3) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater treatment works exceeds the limits established by the approving authority for such materials.
  - (4) Obnoxious, toxic or poisonous solids, liquids or gases in quantities sufficient to violate the provisions of section 66-77(a).

(c) No waste, wastewater or other substance may be discharged into public sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel at the wastewater facilities.

(d) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal or other agencies with jurisdiction over discharges to receiving waters.  
(Code 1995, § 66-78; Ord. of 3-12-1984, § 3)

**Sec. 66-79. Hazardous metals and toxic materials.**

(a) No discharges may contain concentrations of hazardous metals other than amounts specified in subsection (b) of this section.

(b) The allowable concentrations of hazardous metals, in terms of milligrams per liter (mg/l), for discharge to inland waters, and determined on the basis of individual sampling in accordance with standard methods are:

Metal	Not To Exceed		
	Average	Daily composite	Grab sample
(1) Arsenic	0.1	0.2	0.3
(2) Barium	1.0	2.0	4.0
(3) Cadmium	0.05	0.1	0.2

(4) Chromium	0.5	1.0	5.0
(5) Copper	0.5	1.0	2.0
(6) Lead	0.5	1.0	1.5
(7) Manganese	1.0	2.0	3.0
(8) Mercury	0.005	0.005	0.01
(9) Nickel	1.0	2.0	3.0
(10) Selenium	0.05	0.1	0.2
(11) Silver	0.05	0.1	0.2
(12) Zinc	1.0	2.0	6.0

Note--These concentration parameters and rules governing them are promulgated under authority of V.T.C.A., Water Code §§ 5.131 and 5.132 - Hazardous Metals and in accordance with Texas Department of Water Resources Rule 156.19.

(c) No other hazardous metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.

(d) Prohibited hazardous materials include but are not limited to:

- (1) Antimony.
- (2) Beryllium.
- (3) Bismuth.
- (4) Cobalt.
- (5) Molybdenum.
- (6) Uranyl ion.
- (7) Rhenium.
- (8) Strontium.
- (9) Tellurium.
- (10) Herbicides.
- (11) Fungicides.
- (12) Pesticides.

(Code 1995, § 66-79; Ord. of 3-12-1984, § 4)

**Sec. 66-80. Particulate size.**

(a) No person may discharge garbage or other solids into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited.

(b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.  
(Code 1995, § 66-80; Ord. of 3-12-1984, § 5)

**Sec. 66-81. Stormwater, other unpolluted drainage.**

- (a) No person may discharge into public sanitary sewers:
- (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  - (2) Unpolluted cooling water;
  - (3) Unpolluted industrial process waters;
  - (4) Other unpolluted drainage;

or make any new connections from inflow sources.

(b) In compliance with the Texas Water Quality Act and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.  
(Code 1995, § 66-81; Ord. of 3-12-1984, § 6)

**Sec. 66-82. Temperature.**

No person may discharge liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour, or a combined total increase of plant influent to 110 degrees Fahrenheit.  
(Code 1995, § 66-82; Ord. of 3-12-1984, § 7)

**Sec. 66-83. Radioactive wastes.**

(a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.

(b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for the discharge of radioactive wastes into public sewers.  
(Code 1995, § 66-83; Ord. of 3-12-1984, § 8)

**Sec. 66-84. Impairment of facilities.**

- (a) No person may discharge into public sewers any substance capable of causing:
  - (1) Obstruction to the flow in sewers.
  - (2) Interference with the operation of treatment processes of facilities.
  - (3) Excessive loading of treatment facilities.
- (b) Discharges prohibited by subsection (a) of this section include, but are not limited to, materials which exert or cause concentrations of:
  - (1) Inert suspended solids greater than 250 mg/l including but not limited to:
    - a. Fuller's earth.
    - b. Lime slurries.
    - c. Lime residues.
  - (2) Dissolved solids greater than 500 mg/l including but not limited to:
    - a. Sodium chloride.
    - b. Sodium sulfate.
  - (3) Excessive discoloration including but not limited to:
    - a. Dye wastes.
    - b. Vegetable tanning solutions.
  - (4) BOD, COD or chlorine demand in excess of normal plant capacity.
- (c) No person may discharge into public sewers any substance that may:
  - (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers.
  - (2) Overload skimming and grease handling equipment.
  - (3) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action.
  - (4) Deleteriously affect the treatment process due to excessive quantities.
- (d) No person may discharge any substance into public sewers which:

- (1) Is not amenable to treatment or reduction by the processes and facilities employed.
- (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (e) The approving authority shall regulate the flow and concentration of slugs when they may:
  - (1) Impair the treatment process.
  - (2) Cause damage to collection facilities.
  - (3) Incur treatment costs exceeding those for normal wastewater.
  - (4) Render the effluent unfit for stream disposal or industrial use.
- (f) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size including but not limited to:
  - (1) Ashes.
  - (2) Cinders.
  - (3) Sand.
  - (4) Mud.
  - (5) Straw.
  - (6) Shavings.
  - (7) Metal.
  - (8) Glass.
  - (9) Rags.
  - (10) Feathers.
  - (11) Tar.
  - (12) Plastics.
  - (13) Wood.
  - (14) Unground garbage.

- (15) Whole blood.
- (16) Paunch manure.
- (17) Hair and fleshings.
- (18) Entrails.
- (19) Paper products, either whole or ground by garbage grinders.
- (20) Slops.
- (21) Chemical residues.
- (22) Paint residues.
- (23) Bulk solids.

(Code 1995, § 66-84; Ord. of 3-12-1984, § 9)

**Sec. 66-85. Compliance with existing authority.**

(a) Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging:

- (1) Wastewater.
- (2) Industrial waste.
- (3) Polluted liquids.

(b) Unless authorized by the state department of water resources, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property or into or adjacent to any:

- (1) Natural outlet.
- (2) Watercourse.
- (3) Storm sewer.
- (4) Other area within the jurisdiction of the city.

(c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

(Code 1995, § 66-85; Ord. of 3-12-1984, § 10)

**Sec. 66-86. Approving authority requirements.**

(a) If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters; create a hazard to life or health; or create a public nuisance; the approving authority shall require:

- (1) Pretreatment to an acceptable condition for discharge to the public sewers;
- (2) Control over the quantities and rates of discharge; and
- (3) Payment to cover the cost of handling and treating the wastes.

(b) The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (a) of this section.

(c) The approving authority shall reject wastes when it determines that a discharge or proposed discharge does not meet the requirements of subsection (a) of this section.  
(Code 1995, § 66-86; Ord. of 3-12-1984, § 11)

**Sec. 66-87. Approving authority review and approval.**

(a) If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.

(b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

(c) Any person responsible for discharges requiring pretreatment, flow equalizing or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.  
(Code 1995, § 66-87; Ord. of 3-12-1984, § 12)

**Sec. 66-88. Requirements for traps.**

(a) Discharges requiring a trap include:

- (1) Grease or waste containing grease in amounts that will impede or stop the flow in the public sewers.
- (2) Oil.
- (3) Sand.
- (4) Flammable wastes.
- (5) Other harmful ingredients.

(b) Any person responsible for discharges requiring a trap shall, at his own expense and as required by the city:

- (1) Provide a grease trap and facilities of an appropriate type and of sufficient capacity for the facility to which it is connected.
- (2) Locate the trap in a manner that provides easy accessibility for cleaning, inspection and taking of discharge samples.
- (3) Have each trap pumped at least once every three months to evacuate accumulations of grease and/or maintain the trap in such a manner that discharges do not contain grease contaminant loads in excess of 100 mg/liter of discharge. If, on the basis of a certified laboratory analysis acquired by and at the expense of the responsible party, (copy provided to the director of public works of the City of Woodville by the laboratory) it can be shown that discharges are below this limit, pumping may be deferred, but in every such case, the trap must be serviced by pumping no less than once per year. Proof of such service must be provided to the city health inspector upon request.

(Code 1995, § 66-88; Ord. of 3-12-1984, § 13; Ord. No. 20080310, § 1, 3-10-2008)

#### **Sec. 66-89. Requirements for building sewers.**

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

- (1) Install an accessible control manhole.
- (2) Install meters and other appurtenances to facilitate observation, sampling and measurement of the waste.
- (3) Install safety equipment and facilities (ventilation, steps, etc.) where needed.
- (4) Maintain the equipment and facilities.

(Code 1995, § 66-89; Ord. of 3-12-1984, § 14)

#### **Sec. 66-90. Sampling and testing.**

(a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb and property.

(b) Examination and analyses of the characteristics of waters and wastes required by this division shall be:

- (1) Conducted in accordance with the latest edition of standard methods; and
- (2) Determined from suitable samples taken at the control manhole provided or other control point

authorized by the approving authority.

(c) BOD and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.

(d) The approving authority shall determine which users or classes of users may contribute wastewater which is of greater strength than normal domestic wastewater. All users or classes of users so identified shall be sampled for flow BOD, TSS and pH at least annually.

(e) The city may select an independent firm or laboratory to determine flow, BOD and suspended solids, if necessary. Flow may alternately be determined by water meter measurements if no other flow device is available and no other source of raw water is used.  
(Code 1995, § 66-90; Ord. of 3-12-1984, § 15)

### **Sec. 66-91. User charge system.**

(a) Persons making discharges of industrial waste into the city system shall pay a charge to cover all costs of collection and treatment.

(b) When discharges of any waste into the city system are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing:

- (1) Terms of acceptance by the city.
- (2) Payment by the person making the discharge, in accordance with the user charge system as established in subsection (e) of this section.
- (3) Sewer connection procedures and requirements shall be in accordance with the Uniform Plumbing Code as promulgated by the International Association of Plumbing and Mechanical Officials.
- (4) A sewer application approved with connection fee paid.
- (5) Construction of sewer connections shall be approved by city inspectors prior to sewer use.

(c) Each user of the wastewater treatment system will be notified, at least annually, in conjunction with a regular sewer bill, of the rate and that portion of user charges or ad valorem taxes which are attributable to the operation and maintenance of the wastewater treatment system.

(d) The city will apply excess revenues collected from a class of users to the cost of operation and maintenance attributable to that class for the next year and adjust the rates accordingly.

(e) User charge system (see instructions and appendix B to 40 CFR 35).  
(Code 1995, § 66-91; Ord. of 3-12-1984, § 16)

### **Sec. 66-92. Other remedies retained; repeal of conflicting ordinances.**

By its adoption of this division the city does not waive any remedy not mentioned in this division which is available to the city by law or regulation. Any provision of any ordinances heretofore adopted which conflicts with this division is repealed to the extent of any such conflict.  
(Code 1995, § 66-92; Ord. of 3-12-1984, § 17)

**Sec. 66-93. Savings clause for existing discharges.**

A person discharging wastes into public sewers prior to the effective date of the ordinance from which this section derives may continue without penalty so long as he:

- (1) Does not increase the quantity or decrease the quality of discharge without permission of the approving authority.
- (2) Has discharged the waste at least 24 months prior to such effective date.
- (3) Applies for and is granted a permit no later than 150 days after such effective date.

(Code 1995, § 66-93; Ord. of 3-12-1984, § 18)

**Sec. 66-94. Conditions of permits.**

(a) The city may grant a permit to discharge to persons meeting all requirements of the savings clause provided that the person:

- (1) Submits an application within 120 days after the effective date of the ordinance from which this section derives on forms supplied by the approving authority.
- (2) Secures approval by the approving authority of plans and specifications for the facilities when required;
- (3) Has complied with all requirements for agreements or arrangements including but not limited to, provisions for:
  - a. Payment of charges;
  - b. Installation and operation of the facilities and of pretreatment facilities, if required;
  - c. Sampling and analysis to determine quantity and strength when directed by the city; and
- (4) Provides a sampling point, when requested by the city, subject to the provisions of this article and approval of the approving authority.

(b) A person applying for a new discharge shall:

- (1) Meet all conditions of subsection (a) of this section; and

(2) Secure a permit prior to discharging any waste.  
(Code 1995, § 66-94; Ord. of 3-12-1984, § 19)

**Sec. 66-95. Power to enter property.**

(a) The superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this division.

(b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.

(c) Except when caused by negligence or failure of persons to maintain safe conditions, the city shall indemnify the persons against loss or damage to their property by city employees and against liability claims and demands for personal injury or property damage asserted against the persons and growing out of the sampling operation.

(d) The superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of:

- (1) Inspection, observation, measurement, sampling or repair.
- (2) Maintenance of any portion of the sewerage system lying within the easements.
- (3) Conducting any other authorized activity. All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.

(e) No person acting under authority of this section may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers.  
(Code 1995, § 66-95; Ord. of 3-12-1984, § 20)

**Sec. 66-96. Authority to disconnect service.**

(a) The city may terminate water and wastewater disposal service and disconnect a customer from the system when:

- (1) Acids or chemicals which may damage the sewer lines or treatment process are released to the sewer potentially causing accelerated deterioration of these structures or interfering with proper conveyance and treatment of wastewater.
- (2) A governmental agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment.

- (3) The customer:
  - a. Discharges waste or wastewater that is in violation of the permit issued by the approving authority.
  - b. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system.
  - c. Fails to pay monthly bills for water and sanitary sewer services when due.
  - d. Repeats a discharge of prohibited wastes to public sewers in violation of sections 66-77 through 66-84 as stated above.
- (b) If service is discontinued pursuant to subsection (a)(2) of this section, the city shall:
  - (1) Disconnect the customer.
  - (2) Supply the customer with the governmental agency's report and provide the customer with all pertinent information.
  - (3) Continue disconnection until such time as the customer provides pretreatment/additional pretreatment or other facilities designed to remove the objectionable characteristics from his wastes.

(Code 1995, § 66-96; Ord. of 3-12-1984, § 21)

#### **Sec. 66-97. Notices.**

The city shall serve persons discharging in violation of this division with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

(Code 1995, § 66-97; Ord. of 3-12-1984, § 22)

#### **Sec. 66-98. Continuing prohibited discharges after notice.**

No person may continue discharging in violation of this division beyond the time limit provided in the notice.

(Code 1995, § 66-98; Ord. of 3-12-1984, § 23)

#### **Sec. 66-99. Penalty.**

(a) A person who continues prohibited discharges is guilty of a misdemeanor and upon conviction is punishable as provided in section 1-10 for each act of violation and for each day of violation.

(b) In addition to proceeding under authority of subsection (a) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges.

(Code 1995, § 66-99; Ord. of 3-12-1984, § 24)

**Sec. 66-100. Failure to pay bill.**

In addition to sanctions provided for by this division, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due. (Code 1995, § 66-100; Ord. of 3-12-1984, § 25)

**Sec. 66-101. Penalty for criminal mischief.**

The city may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities. (Code 1995, § 66-101; Ord. of 3-12-1984, § 26)

**Chapters 67--69**

**RESERVED**

## **Chapter 70**

### **VEGETATION\***

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\* **State Law References:** Municipal power concerning weeds, brush, etc., V.T.C.A., Health and Safety Code § 342.004; improvement districts in municipalities, V.T.C.A., Local Government Code § 372.001 et seq.; endangered plants, V.T.C.A., Parks and Wildlife Code § 88.001 et seq.

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#### **Article I. In General**

**Secs. 70-1--70-30. Reserved.**

#### **Article II. Trees**

##### **Division 1. Generally**

**Secs. 70-31--70-45. Reserved.**

##### **Division 2. Southern Pine Beetles**

**Sec. 70-46. Infestation declared nuisance.**

**Sec. 70-47. Duty of owner of infested tree.**

**Sec. 70-48. Inspection of trees.**

**Sec. 70-49. Infestation examination; notice of action; costs.**

**Sec. 70-50. Costs in addition to penalties.**

**Sec. 70-51. City-owned trees.**

**Sec. 70-52. Duty of city administrator.**

### **ARTICLE I.**

### **IN GENERAL**

**Secs. 70-1--70-30. Reserved.**

### **ARTICLE II.**

### **TREES**

#### **DIVISION 1.**

#### **GENERALLY**

**Secs. 70-31--70-45. Reserved.**

#### **DIVISION 2.**

#### **SOUTHERN PINE BEETLES**

**Sec. 70-46. Infestation declared nuisance.**

Any pine tree infested with the insect known as the southern pine beetle, as determined by the city, a representative of the state forest service, or an entomologist, is declared to be a public nuisance.  
(Code 1966, § 20-1; Code 1995, § 70-46)

**State Law References:** Forest pest control, V.T.C.A., Natural Resources Code ch. 152.

#### **Sec. 70-47. Duty of owner of infested tree.**

It shall be unlawful for any owner of any lot or parcel of land within the city limits to permit or maintain on any such lot or parcel of land any pine tree infested with southern pine beetle which is a public nuisance as defined in this division, and it shall be the duty of the owner of such tree, if such is found to be infested with the southern pine beetle, to permit chemical treatment of the bark of the tree by the city administrator or persons authorized by him to perform such task, or the felling of the tree and subsequent chemical treatment of the bark.  
(Code 1966, § 20-2; Code 1995, § 70-47)

#### **Sec. 70-48. Inspection of trees.**

The city administrator or persons delegated by him is authorized and empowered to enter upon any lot or parcel of land within the city at any reasonable hour for the purpose of inspecting any pine tree situated thereon and may remove or cause to be removed a portion of the bark to determine if such tree is infested with the southern pine beetle. It shall be unlawful for any person to take any action to prevent the city administrator or person delegated by him from entering on any lot or parcel of land in the city for the purpose of such inspection or to interfere with the city secretary in the performance of any of his duties provided for under the provisions of this article.

(Code 1966, § 20-3; Code 1995, § 70-48)

#### **Sec. 70-49. Infestation examination; notice of action; costs.**

(a) If, from an examination of the tree or from a bark sample removed from the tree by the city administrator or his delegated representative with entomological competence, it is determined that a tree is infested with southern pine beetles and is a public nuisance as provided in this division, the city administrator shall serve or cause to be served upon the owner of record of the lot or parcel of land on which such tree is located a written notice requiring such owner to comply with the provisions of this article.

(b) If any such person upon whom such notice is served refuses to voluntarily permit the felling and/or chemical treatment of the bark of such tree by the city administrator or other persons authorized by him, within ten days after service of such notice, the city administrator may proceed to have such tree chemically treated and/or felled by the state forest service or other state agency or any other person with the cost thereof assessed against the owner of such lot or parcel of land and the amount of such cost shall be paid by the owner to the city.

(c) Service of notice provided for in this division shall be by personal service if the owner of the lot or parcel of land on which the infested tree is located is a resident of the city. If the owner cannot be found in the city or is a nonresident of the city, written notice shall be served by registered mail and by publication at least once in a newspaper of general circulation in the city.

(Code 1966, § 20-4; Code 1995, § 70-49)

#### **Sec. 70-50. Costs in addition to penalties.**

If the city causes to be felled from any lot or parcel of land in the city any infested pine tree which is a public nuisance as provided by section 70-49 of this article, the assessment of the cost of the work done or caused to be done by the city against the owner of the lot or parcels of land involved shall be in addition to the penalties imposed for any violation or noncompliance with any provision of this article.  
(Code 1966, § 20-5; Code 1995, § 70-50)

**Sec. 70-51. City-owned trees.**

Any pine tree on property owned by the city which is a public nuisance as defined in this article shall be promptly chemically treated and/or felled by the city or other persons authorized by the city administrator.  
(Code 1966, § 20-6; Code 1995, § 70-51)

**Sec. 70-52. Duty of city administrator.**

The city administrator shall perform the duties set forth and shall enforce the provisions of this division.  
(Code 1966, § 20-7; Code 1995, § 70-52)

**Chapters 71--73**

**RESERVED**

## Chapter 74

### VEHICLES FOR HIRE\*

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\* **State Law References:** Municipal regulation of taxicabs, V.T.C.A., Local Government Code §§ 215.004, 215.029.

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Secs. 74-1--74-30. Reserved.

#### Article I. In General

#### Article II. Taxicabs

##### Division 1. Generally

Sec. 74-31. Definitions.

Secs. 74-32--74-50. Reserved.

##### Division 2. Permit

Sec. 74-51. Required.

Sec. 74-52. Application; contents.

Sec. 74-53. Applicant to be resident of city or have principal place of business in city.

Sec. 74-54. Action on application by city council.

Sec. 74-55. Fee.

Sec. 74-56. Issuance; contents.

Sec. 74-57. Use of additional vehicles under same permit.

Sec. 74-58. Assignment; revocation.

Sec. 74-59. Liability insurance prerequisite to issuance.

### ARTICLE I.

### IN GENERAL

Secs. 74-1--74-30. Reserved.

### ARTICLE II.

### TAXICABS\*

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\* **State Law References:** Type A municipality may regulate cabdrivers and similar occupations, V.T.C.A., Local Government Code § 215.029.

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#### DIVISION 1.

#### GENERALLY

Sec. 74-31. 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:

*Conduct a taxicab business* means the use of one or more taxicabs within the corporate limits of the city, by the owner thereof, for the purpose of carrying passengers for hire, either by driving the taxicab himself or having the taxicab driven by some other person. This definition shall not apply to any licensed chauffeur hired as a driver by any person holding a permit to conduct a taxicab business in the city.

*Taxicab* means any and all vehicles that are designed for carrying no more than eight passengers, carrying passengers for hire, and are operated:

- (1) Within the jurisdiction of the city;
- (2) On property owned by the city, singly or jointly with one or more other municipalities or public agencies;
- (3) On property in which the city possesses an ownership interest; or
- (4) By transporting from the city property, or property in which the city has an interest and returning to it;

except motor buses or motor coaches operated by bus lines over designated routes in and through the city. (Code 1966, § 18-1; Code 1995, § 74-31)

**State Law References:** Similar provisions, V.T.C.A., Local Government Code § 215.004.

**Secs. 74-32--74-50. Reserved.**

## **DIVISION 2.**

### **PERMIT**

**Sec. 74-51. Required.**

It shall be unlawful for any person to conduct a taxicab business in the city without a valid permit therefor issued by the city.

(Code 1966, § 18-12; Code 1995, § 74-51)

**Sec. 74-52. Application; contents.**

Before any person shall conduct a taxicab business in the city, he shall file with the city secretary an application to the city council for a permit to conduct such business. The application shall state the name and address of the applicant; whether the applicant is an individual, firm or corporation, and, if a firm, the name and address of each member thereof. The application shall be accompanied by a statement, in writing and signed by the applicant under oath, showing the number of vehicles proposed to be operated by him and the make, model, motor number and state license number of each.

(Code 1966, § 18-13; Code 1995, § 74-52)

**Sec. 74-53. Applicant to be resident of city or have principal place of business in city.**

If the applicant for a permit under this division is an individual, before any permit is granted it shall be made to appear that he is a bona fide resident of the city or has his principal place of business in the city; if a partnership, that the member of the firm who will be in active charge and control of the affairs of the partnership is a bona fide resident of or has his principal place of business in the city; and if a corporation, that the president or other executive officer in active charge and control of the affairs of the corporation is a bona fide resident of or has his principal place of business in the city.  
(Code 1966, § 18-14; Code 1995, § 74-53)

**Sec. 74-54. Action on application by city council.**

It shall be the duty of the city secretary, when an application for a permit under this article is filed with him, at the next regular meeting of the city council following the filing of such application, to call the attention of the city council thereto. Upon consideration of the application, the council may grant or refuse such permit, as in its discretion may seem to the best interest of the citizens of the city and the public in general.  
(Code 1966, § 18-15; Code 1995, § 74-54)

**Sec. 74-55. Fee.**

At the time of issuance of a permit under this division, the applicant therefor shall pay to the city secretary a fee as set from time to time by the city council.  
(Code 1966, § 18-16; Code 1995, § 74-55)

**Sec. 74-56. Issuance; contents.**

All permits for a taxicab business in the city shall be issued and signed by the city secretary and sealed with the seal of his office. Such a permit shall be dated on the day of the issuance; shall bear a serial number; shall show the name and address of the permittee, and that, subject to:

- (1) The permittee delivering to the city secretary a policy of liability insurance, in form and written by a company satisfactory to the city secretary, providing liability and property damage insurance in the minimum amount of \$100,000.00 for any one, single personal injury of any person, \$300,000.00 for personal injuries in any one, single accident and \$100,000.00 property damage for any one, single accident, such insurance to be applicable to passengers in the taxicab operated by permittee as well as owners and occupants of other vehicles; and
- (2) Two signs reading "taxicab" being placed on each side of the vehicle covered by the permit or, in the alternative, a sign being placed on top of such vehicle visible from each side thereof reading "taxicab";

the permittee has been authorized by the city council to conduct a taxicab business in the city until December 31 next following the date of issuance, and that the permit is subject to cancellation at any time by the city council.  
(Code 1966, § 18-17; Code 1995, § 74-56)

**Sec. 74-57. Use of additional vehicles under same permit.**

If at any time the holder of a taxicab permit shall desire to use, under the permit, any vehicles in addition

to those listed in the statement provided for in section 74-52, he may do so only after he has made application to the city council for, and been granted by the council, a permit to use such additional vehicles. He shall furnish to the city secretary the same information regarding the additional vehicles as is required in this article regarding those covered by the original permit, and shall pay to the city secretary a fee as set from time to time by the city council for each additional vehicle.  
(Code 1966, § 18-18; Code 1995, § 74-57)

**Sec. 74-58. Assignment; revocation.**

Any permit issued under the provisions of this division shall be nonassignable and may be revoked by the city council at any time it shall appear to the council that the permittee has violated any provision of this article or failed to comply with any requirements of this article.  
(Code 1966, § 18-19; Code 1995, § 74-58)

**Sec. 74-59. Liability insurance prerequisite to issuance.**

No permit for a taxicab business in the city shall be issued by the city secretary until a good and valid policy of liability insurance, conforming in amount and otherwise to the requirements of the Safety Responsibility Law, has been filed with the city secretary and approved by him.  
(Code 1966, § 18-20; Code 1995, § 74-59)

## APPENDIX A

### SUBDIVISION REGULATIONS\*

\* **Editors Note:** Printed herein is the subdivision ordinance, as adopted by the city council on November 20, 1961. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

**State Law References:** Interlocal Cooperation Act, V.T.C.A., Government Code § 791.001 et seq.; extraterritorial jurisdiction of municipalities, V.T.C.A., Local Government Code § 42.001 et seq.; municipal annexation, V.T.C.A., Local Government Code § 43.001 et seq.; municipal regulation of subdivisions, V.T.C.A., Local Government Code § 212.001 et seq.; extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code § 212.003; extraterritorial jurisdiction of municipalities in counties that regulate subdivisions, V.T.C.A., Local Government Code § 242.001; public records generally, V.T.C.A., Property Code § 11.001 et seq.; instruments concerning property, V.T.C.A., Property Code § 12.001; recording of plats, V.T.C.A., Property Code § 12.002.

#### Sec. 1. General.

Sec. 1a. [Application of ordinance to area within extraterritorial jurisdiction.]

#### Sec. 2. Definitions.

#### Sec. 3. Policy.

#### Sec. 4. General requirements.

#### Sec. 4A. Requirements for streets, curbing, gutter, water, gas and sewer lines.

#### Sec. 5. Survey requirements.

#### Sec. 6. Procedure.

#### Sec. 7. Final or record plat.

#### Sec. 8. (Reserved).

#### Sec. 9. Disapproval of plat in absence of water and sewer facilities.

#### Sec. 10. Assistance to subdivider.

#### Sec. 11. Acute street angles; platting of streets; intersecting cross streets.

#### Sec. 12. Fees and charges.

#### Sec. 13. Penalties.

#### Sec. 14. Severability.

#### Sec. 15. Conflicting ordinances.

#### Sec. 16. Changing required plat size or amount of fees.

AN ORDINANCE PROVIDING RULES AND REGULATIONS GOVERNING THE PLATTING OR REPLATTING OF LAND INTO SUBDIVISIONS IN THE CITY OF WOODVILLE AND WITHIN THE EXTRATERRITORIAL JURISDICTION OF ONE-HALF MILE OF THE CORPORATE LIMITS OF THE CITY OF WOODVILLE, AND REQUIRING PLATS AND REPLATS TO CONFORM TO SUCH RULES AND REGULATIONS IN ORDER TO PROCURE THE APPROVAL OF THE CITY OF WOODVILLE CITY SECRETARY; PROVIDING A PENALTY AND SAVINGS CLAUSE AND REPEALING ALL CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODVILLE, TEXAS, DULY ASSEMBLED:

#### Sec. 1. General.

These regulations shall govern every person, firm, association or corporation owning any tract of land

within the city limits of the City of Woodville or within the extraterritorial jurisdiction of one-half mile of the corporate limits of said city, who may hereafter divide the same in two or more parts for the purpose of laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

### **Sec. 1a. [Application of ordinance to area within extraterritorial jurisdiction.]**

Be it ordained by the city council of the City of Woodville, Texas, under the authority of V.T.C.A., Local Government Code § 212.003, that the application of the subdivision ordinance heretofore adopted by the city council of the City of Woodville, Texas on November 20, 1961, a copy of which subdivision ordinance is attached to and forms a part of the minutes, be and the same is hereby extended to all of the area under the extraterritorial jurisdiction of the City of Woodville as such extraterritorial jurisdiction is established by V.T.C.A., Local Government Code § 42.021, and the rules and regulations governing plats and the subdivision of land set out and contained in said subdivision ordinance shall hereafter, under the authority of V.T.C.A., Local Government Code § 212.003, apply to all the contiguous unincorporated area, not a part of any other city, within one-half mile of the corporate limits of the City of Woodville, Texas.

Be it further ordained that should the extraterritorial jurisdiction of the City of Woodville, Texas be hereafter extended to include territory other than that above described because of amendment to the law or increase in the population of the City of Woodville, Texas, then and in that event the provisions of said subdivision ordinance and the rules and regulations therein set out shall apply to such additional territory included within the extended extraterritorial jurisdiction of the City of Woodville, Texas.

(Ord. of 9-13-1965)

### **Sec. 2. Definitions.**

2.01. *City or the city* shall mean the City of Woodville, Texas.

2.02. *Subdivision* shall mean the division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership, and shall include resubdivision.

2.03. *Resubdivision* shall mean the division of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines.

2.04. The word *shall* shall be deemed as mandatory. The word *may* shall be deemed as permissible.

2.05. *Plat* shall mean a map or chart of the subdivision. It shall include plan, plat or replat and include both singular and plural.

### **Sec. 3. Policy.**

It shall be unlawful for any owner or agent of any owner of land to lay out, subdivide, plat or replat any land into lots, blocks and streets within the city, or within a maximum distance of one-half mile of the corporate limits of the city without the approval of the city council. It shall also be unlawful for any such owner or agent to offer for sale or sell property therein or thereby, which has not been laid out, subdivided, platted or replatted

with the approval of the city council.

- 3.01. The city hereby defines its policy to be that the city will withhold all city improvements of whatsoever nature, including the maintenance of streets, and will further withhold the furnishing of water and gas and will not make or permit to be made any connection of a water, gas or sewer line in such addition or subdivision with the city's water, gas and sewer line, unless the final plat of such addition or subdivision has been theretofore approved by the city council in accordance with the requirements of this ordinance. It is further the policy of the city that the city council shall not approve the final plat of any addition or subdivision unless general requirements of section 4 hereof and all the other requirements of this ordinance have been strictly complied with.
- 3.02. No street number and no building permit shall be issued for the erection of any building in the city on any piece of property other than on an original lot according to the original map or plat of the City of Woodville now on record in the office of the county clerk of Tyler County, Texas, or on an original or resubdivided lot in a duly approved and recorded subdivision without the written approval of the city council.
- 3.03. (Reserved).
- 3.04. The attention of each subdivider is directed to V.T.C.A., Property Code § 12.002(a), which states:

"The county clerk or a deputy of the clerk with whom a plat or replat of a subdivision of real property is filed for recording shall determine whether the plat or replat is required by law to be approved by a county or municipal authority or both. The clerk or deputy may not record a plat or replat requiring approval unless it is approved as provided by law by the appropriate authority and unless the plat or replat has attached to it the documents required by V.T.C.A., Local Government Code § 212.0105 or 232.0035, if applicable. If a plat or replat does not indicate whether land covered by the plat or replat is in the extraterritorial jurisdiction of the municipality, the county clerk may require the person filing the plat or replat for recording to file with the clerk an affidavit stating that information."

#### **Sec. 4. General requirements.**

- 4.01. Streets in general must conform to the following:
  - (a) Minimum width of 40 feet, however, greater width may be required.
  - (b) Shall connect with existing streets in adjoining subdivisions, and/or with original city streets.
  - (c) Be named to provide continuity with existing streets.
  - (d) Avoid dead ends, except for future planning courts.
  - (e) Platted with appropriate regard for all topographical features lending themselves to attractive

treatment and layout of utilities.

4.02. Alleys shall have a minimum width of 20 feet.

4.03. Residential lots shall be a minimum of 60 feet wide and a minimum of 5,000 square feet in area.

4.04. [Utilities.]

- (a) The subdivider will be required to install at his own expense, all water lines, gas lines, streets, curb and gutter, sewer lines, storm sewer lines and drainage facilities and structures within the subdivision in accordance with the city's standards governing the same including all engineering costs covering design, layout, and construction.
- (b) There will be no participation by the city in the cost of any of the underground utility lines or drainage facilities within the subdivision except in the event of the requirement for oversize lines to serve land areas and improvements beyond the subdivision in question, or to serve other subdivisions. Each installation of this character and the terms and extent of city participation will be considered individually upon the merits of each facility and the conditions involved.
- (c) The city may pay up to one-half the cost of the extension of the city water system and the city sanitary sewer system to serve the subdivision when funds are available for such extensions and the same is deemed expedient by the city. Any such participation by the city shall be only for the extension of services to the plat boundary and not within the subdivision proper except as provided in subsection (b) above.
- (d) City of Woodville standards, as used herein, shall mean the standards for streets and alleys, storm sewer lines and appurtenant structures, water lines and appurtenant structures, sanitary sewer lines and appurtenant structures, which have been adopted by the city council and which may be amended from time to time and are hereby referred to.

(Ord. of 9-12-1966; Ord. No. 75-7, 7-14-1975)

#### **Sec. 4A. Requirements for streets, curbing, gutter, water, gas and sewer lines.**

*Streets and curb and gutter:* All streets must be paved and a curb and gutter must be installed on each side of each street at the sole cost and expense of the subdivider, said paving to be done and said curb and gutter to be constructed in strict accordance with the standards, requirements and specifications for paving and construction of curb and gutter hereafter adopted by the city council of the City of Woodville.

*Water:* No main shall be smaller than six inches. A minimum size for service lines shall be two inches. Number of customers served by two-inch shall be eight on stubs and 16 on looped lines.

*Gas:* Two-inch or larger.

*Sewer lines:* Six-inch or larger over ten lots.

It is further provided that should it appear to the city council that, because of some overriding public

need and benefit, it would be proper for the city to do so, and provided said council finds that it would be economically feasible to do and that any expense incurred by the city can be recovered in a reasonable period of time from tap-in fees, the city may, upon such findings by the city council and upon the affirmative vote of the council, furnish the labor in connection with the construction of any required utility line in a subdivision. It is expressly provided however that no such labor shall be furnished unless the city council finds that there is such an overriding public benefit and need, that there are uncommitted funds available in the treasury to pay for such labor and that the cost thereof can be recovered through such tap-in fees within an economically acceptable period of time.

(Ord. No. 71-5, 5-10-1971; Ord. No. 75-6, 7-14-1975)

## **Sec. 5. Survey requirements.**

5.01. Monuments consisting of one-inch iron pipe, twenty-six inches in length, shall be placed at all corners of the block lines, the point of intersection of curves and tangents of the subdivision.

5.02. One benchmark for each five acres of property or fraction thereof shall be permanently installed in an approved manner, with their location and the elevation shown on the plat.

5.03. Lot markers shall be metal or concrete stakes placed at each corner of all lots, flush with the average ground elevation, or they may be countersunk, if necessary to avoid being disturbed.

## **Sec. 6. Procedure.**

6.01. *Preliminary plats.* Three copies of a preliminary plat shall be submitted to the city. The council shall approve or disapprove said plat. Should the plat be disapproved by the city council, the same, with written objections thereto, shall be returned to the subdivider or developer filing the same. The plat shall be drawn to a scale of 200 feet to one inch or larger and shall show or be accompanied by the following information:

- (a) Name of subdivision.
- (b) Names of the owner and engineer or surveyor responsible for the survey and design.
- (c) Boundary lines, existing building lines, and width and location of platted streets and alleys within and adjacent to the property.
- (d) Width and depth and/or area of proposed lots.
- (e) Physical features of the property, including location of watercourses, culverts, bridges, proposed drainage ditches and present structures, streets and alleys, highways, etc., including widths and names.
- (f) A designation of the proposed uses of land within the subdivision.
- (g) Adequate off-street parking must be provided for lots set aside or planned for business, public or institution use.

- (h) A map on a smaller scale must be presented to show any subdivision within one mile and how the streets, alleys or highways in the subdivision submitted may connect with those nearby.
- (i) Profiles of streets and ditches may be called for.
- (j) Each subdivision plat shall be accompanied by a field note description thereof provided by a duly licensed and/or registered engineer and/or surveyor, which field notes shall call for the course and distance to the nearest original survey corner, if without the city limits of the City of Woodville, Texas or, if within such limits, shall call for the course and distance to the nearest existing corner of an original block according to the map or plat of the city recorded in the office of the county clerk of Tyler County, Texas. Such plats shall also show the existing boundary lines of the land to be subdivided and the property lines of adjoining property owners and adjoining street lines if any.
- (k) Such plat is to be dated and will show the scale and north point.
- (l) No preliminary plat may be filed unless the same is accompanied by a certificate under the hand and seal of the city secretary stating that all taxes have been paid on the tract of land to be subdivided and that no delinquent city taxes exist against the property.

6.02. [*Approval of preliminary plat.*] Approval of the preliminary plat does not constitute acceptance of the subdivision, but is merely authority to proceed with the preparation of the final or record plat. No work shall be done on the subdivision before the final plat is accepted and recorded. Approval of a preliminary plat expires at the end of 90 days, unless final or record plat has been submitted to the city council. Any changes by the city council may require submission of another preliminary plat.

## **Sec. 7. Final or record plat.**

Two white print copies of the final or record plat shall be submitted to the city council after the preliminary plat has been approved and all changes and alterations made. No final plat will be considered unless a preliminary plat has first been submitted. The council shall either approve or disapprove said plat. Should the final plat be disapproved by the city council the same, with written objections thereto, shall be returned to the subdivider or developer filing the same. The final plat shall show or be accompanied by the following data:

- (a) The date, scale, north point and subdivision title with the name of subdivision owner or owners, and licensed land surveyor or registered engineer or registered public surveyor responsible for the plat.
- (b) Location of the subdivision with reference to original land grant or survey, if without the city limits, or with reference to the corner of an original existing block as shown by the map of the city recorded in the office of the county clerk of Tyler County, if within the city limits.
- (c) The certificate of the registered engineer or licensed land surveyor or registered public surveyor who surveyed, mapped and monumented the land should be placed on the face of the plat.
- (d) A certificate of ownership and dedication of all streets, alleys, parks and playgrounds to public

use forever, signed and acknowledged before a notary public by the owner and lienholder of the land. An easement at least ten feet in width shall be reserved over and across the rear of each lot parallel with the street on which the lot abuts for the use of the city and utility companies in running gas, water, sewer, electric, telephone and other utility lines through the subdivision and/or to the residents or inhabitants thereof.

- (e) An accurate on-the-ground boundary survey of the property with bearings and distances and showing the lines of all adjacent land, streets and alleys with their names and width. (Streets, alleys and lot lines in adjacent subdivision shall be shown dotted.) All necessary data to reproduce the plat on the ground must be shown on the plat.
- (f) Plats shall be accompanied by an accurate field note description of the subdivision prepared by a registered engineer or licensed land or registered public surveyor which field note description shall call for the course and distance to the nearest original survey corner, if without the city limits of the City of Woodville, Texas, or if within such limits shall call for the course and distance to the nearest existing corner of an original block of the City of Woodville, Texas, according to the map or plat of such city recorded in the office of the county clerk of Tyler County, Texas. Such field note description shall also call for the course and distance to at least one corner of the tract or parcel of land being subdivided.
- (g) Where lots are set aside or planned for business use, adequate off-street parking must be provided and an additional set-back building line may be required.
- (h) The description and location of all permanent survey monuments shall be shown.
- (i) Such plat must be accompanied by two copies of any restrictions applicable to such subdivision.
- (j) Plats shall be drawn upon sheets 16 × 18 inches or larger in size and to the scale of 100 feet to the inch. Certificate of approval to be signed by the city council of the City of Woodville, Texas, should it approve such plat shall be placed on the face of the plat.
- (k) Should the plat be approved, two additional copies thereof shall be furnished to the said city secretary for use by the city water and gas department.
- (l) Where it is deemed necessary, the city council may require the dedication of an easement for drainage purposes, such easement to be at such location and in such width as may be required by said city council.
- (m) The dedication of all streets, alleys, parks, playgrounds and all utility and drainage easements required under or by [subsections] (d) and (m) above shall be to the public use forever and shall be executed by all persons, firms, associations or corporations owning interest in the property to be subdivided or re-subdivided and such dedication shall be acknowledged in the manner prescribed by the laws of the State of Texas for conveyances of real property. The form of such dedication shall be approved by the city attorney of the City of Woodville and his approval shall be evidenced by letter attached to the plat. In the case of lienholders, they shall execute a release of any rights, title or interest which they have or may be entitled to in and to any such property

dedicated for street, alley, park, playground or easement purposes and such release shall be approved by the city attorney by letter attached to the plat before the same is filed.

- (n) Each preliminary and final plat shall be accompanied by a certificate in such form as is satisfactory to the city attorney representing, under oath, that the parties joining in such proposed subdivision or resubdivision and who propose to dedicate streets, alleys, parks, playgrounds and easements to the use of the public are the sole and only owners of the fee title to the tract of land proposed to be subdivided or resubdivided, free of all liens and encumbrances of every kind, save and except only those specifically mentioned in the certificate. Each of such parties shall subscribe and swear to the truthfulness of such certificate before a notary public.
- (o) It shall be unlawful for any officer or employee of the City of Woodville to perform or cause to be performed any work upon any street or upon any gas, water or sewer line or to perform any other service with regard to any area subdivided or resubdivided within the City of Woodville, Texas, or within one-half mile of the city limits of the City of Woodville, Texas, unless the developer or subdivider of such subdivision or resubdivision has complied with all the requirements of this ordinance.
- (p) The plat shall show the location and elevation of the benchmark or benchmarks described and required in [section] 5.02 above, and unless, waived by the city council, shall show contour lines reflecting variances in elevations within the subdivided area at 50-foot intervals.

#### **Sec. 8. (Reserved).**

#### **Sec. 9. Disapproval of plat in absence of water and sewer facilities.**

The city council may refuse to approve a plat unless it is evident that proper water and sewer facilities can be supplied within a reasonable length of time.

#### **Sec. 10. Assistance to subdivider.**

The city secretary will assist and the city council and city engineer, if any, will assist the subdivider through preliminary discussion of proposed plats at all possible times and will make available all possible assistance with regard to such planning.

#### **Sec. 11. Acute street angles; platting of streets; intersecting cross streets.**

In planning, platting, and laying out of a subdivision or resubdivision, acute angles between streets at their intersections are to be avoided. Streets shall be platted to allow two tiers of lots with an alley between them. Intersecting cross streets shall not be more than 1,000 feet apart.

#### **Sec. 12. Fees and charges.**

Fees and charges under this ordinance shall be paid into the general fund of the City of Woodville, when any map or plat is tendered to the city council, and each of such fees and charges shall be paid in advance. No action of the city council shall be valid until the fee shall have been paid. The city secretary or his assistants

shall calculate the fees and charges in accordance with the schedule established by the council from time to time. The fees shall be charged on all plats, regardless of the action taken by the city council.

**Sec. 13. Penalties.**

Any person violating this ordinance or any portion thereof shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than \$50.00 nor more than \$500.00, and each day that such violation continues shall be considered a separate offense and punishable accordingly.

**Sec. 14. Severability.**

If any section or part of any section or paragraph or sentence of the ordinance from which this section is derived is declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of section or paragraph or sentence of this ordinance.

**Sec. 15. Conflicting ordinances.**

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

**Sec. 16. Changing required plat size or amount of fees.**

Size of final plats and the amount of the fees hereinabove provided may be amended, adjusted or changed by the city council of the City of Woodville by resolution of such council adopted at a regular meeting thereof.