CITY OF BURKBURNETT, TEXAS

CODE OF ORDINANCES

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ORDINANCE NO. 451

ENACTING AS AN ORDINANCE, A CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS, REVISING, AMENDING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY DEALING WITH SUBJECTS EMBRACED IN SAID CODE.

WHEREAS, the present general ordinances of the City of Burkburnett are incomplete and inadequate and the manner of arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the City; and

WHEREAS, the Acts of the Texas Legislature of the State of Texas empower and authorize the City Commissioners of this City to revise, amend, restate, codify and to compile any existing ordinance or ordinances and all new ordinances not heretofore adopted or published and to incorporate said ordinances into one ordinance in book form; and

WHEREAS, the Board of Commissioners of the City of Burkburnett has authorized a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Burkburnett, Texas, that:

Section 1. The general ordinances of the City of Burkburnett, Texas, as herein revised, amended, restated, codified, and compiled in book form are adopted as and shall constitute the "Code of Ordinances of the City of Burkburnett, Texas."

Section 2. Said Code as adopted in Section 1 shall consist of the following titles, to-wit:

Title I	General Provisions
Title III	Administration
Title V	Public Works
Title VII	Traffic Code
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Section 3. All prior ordinances pertaining to the subjects treated in said Code shall be deemed repealed from and after the effective date of said Code except as they are included and reordained in whole or in part in said Code; provided such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of said Code, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory

establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plats or dedication of land to public use, naming or vacating or setting the boundaries of streets, alleys or other public places, nor to any other ordinance of a temporary or special nature or pertaining to subjects not contained therein.

Section 4. Said Code shall be deemed published as of the day of its adoption and approval by the City Commissioners, and the Clerk of the City of Burkburnett is hereby authorized and ordered to file a copy of said Code in the Office of the City Clerk.

Section 5. Said Code shall be in full force and effect two weeks from the date of its publication and filing thereof in the Office of the Clerk, and said Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded and approved and that any public hearings and notices thereof as required by law have been given.

PASSED AND ADOPTED by the City Commissioners of the City of Burkburnett, Texas, this 19 day of September, 1988.

Pat Norriss /s/
Mayor

ATTEST:

Lahoma Wood /s/
City Secretary

1989 S-1

ORDINANCE NO. 459

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1989 S-1 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the State of Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1989 S-1 Supplement to the Code of Ordinances of the City of Burkburnett, Texas as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 12th day of June, 1989.

Pat Norriss /s/
Mayor

ATTEST:

Lahoma Wood /s/
City Secretary

ORDINANCE NO. 477

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the Annual Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the Annual Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, 1990 Supplement, updated through Ordinance No. 465, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 19th day of November, 1990.

Pat Norriss /s/
Mayor

ATTEST:

Lahoma Wood /s/
City Clerk

ORDINANCE NO. 491

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1991 S-3 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1991 S-3 Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 16th day of December, 1991.

Pat Norriss /s/
Mayor

ATTEST:

Tamara Burchett /s/
City Secretary

ORDINANCE NO. 500

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1992 S-4 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1992 S-4 Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 16th day of November, 1992.

Pat Norriss /s/
Mayor

ATTEST:

Tamara Burchett /s/
City Secretary

ORDINANCE NO. 521

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1993 S-5 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1993 S-5 Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 20th day of November, 1993.

Pat Norriss /s/
Mayor

ATTEST:

Tamara Burchett /s/
City Secretary

ORDINANCE NO. 533

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1994 S-6 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1994 S-6 Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 21st day of November, 1994.

Pat Norriss /s/
Mayor

ATTEST:

Tamara Burchett /s/
City Secretary

ORDINANCE NO. 540

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1995 S-7 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1995 S-7 Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed and approved this the 15th day of January, 1996.

Pat Norriss /s/
Mayor

ATTEST:

Tamara Burchett /s/
City Secretary

ORDINANCE NO. 547

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1996 S-8 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1996 S-8 Supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed and approved this the 21st day of October, 1996.

Pat Norriss /s/
Mayor

ATTEST:

Tamara Burchett /s/
City Secretary

ORDINANCE NO. 556

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF BURKBURNETT.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1997 S-9 Supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Texas Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Texas;

NOW, THEREFORE, BE IT ORDAINED by the City Commissioners of the City of Burkburnett, State of Texas:

SECTION 1. That the 1997 S-9 Supplement to the Code of Ordinances of the City of Burkburnett, Texas as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed and approved this the 20th day of October, 1997.

Pat Norriss /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 568

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1998 S-11 supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Texas code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Burkburnett, Texas:

Section 1. That the 1998 S-11 supplement to the Code of Ordinances of the City of Burkburnett, Texas as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this the 21st day of December, 1998.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 592

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS; AND DECLARING AN EMERGENCY.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1999 S-12 supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Texas code; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of Texas; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Burkburnett, Texas:

Section 1. That the 1999 S-12 supplement to the Code of Ordinances of the City of Burkburnett, Texas as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this the 15th day of May, 1999.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 619

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2001 S-13 (through February, 2001) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2001 S-13 (through February, 2001) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 18th day of June 2001.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 637

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2002 S-14 (through March, 2002) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2002 S-14 (through March, 2002) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 17th day of June 2002.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 655

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2003 S-15 (through January, 2003) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2003 S-15 (through January, 2003) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 21st day of April 2003.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 676

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2004 S-16 (through March 2004) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2004 S-16 (through March 2004) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 21st day of June 2004.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 698

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2005 S-17 (through February 2005) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2005 S-17 (through February, 2005) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 20th day of June 2005.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 720

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2006 S-18 (through April 2006) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2006 S-18 (through April, 2006) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 18th day of September 2006.

Bill Vincent /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 748

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2007 S-19 (through October 2007) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

Section 1. That the 2007 S-19 (through October, 2007) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 17th day of March 2008.

Lee Potts /s/
Mayor

ATTEST:

Trish Holley /s/
City Secretary

ORDINANCE NO. 807

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2011 S-21 (through March 2011) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

SECTION 1. That the 2011 S-21 (through March, 2011) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 18th day of July 2011.

Carl Law /s/
Carl Law, Mayor

ATTEST:

Janelle Dolan /s/
Janelle Dolan, City Clerk

ORDINANCE NO. 821

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE CITY OF BURKBURNETT, TEXAS.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2012 S-22 (through May 2012) supplement to the Code of Ordinances of the City of Burkburnett, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the City of Burkburnett, Texas; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the State of Texas Code; and

WHEREAS, it is the intent of the Board of Commissioners to accept these updated sections in accordance with the changes of the law of the State of Texas; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

SECTION 1. That the 2012 S-22 (through May, 2012) supplement to the Code of Ordinances of the City of Burkburnett as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

PASSED AND APPROVED this 20th day of August 2012.

Carl Law /s/
Carl Law, Mayor

ATTEST:

Janelle Dolan /s/
Janelle Dolan, City Clerk

BURKBURNETT, TEXAS
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CHARTER

of the

CITY OF BURKBURNETT

ARTICLE I

Corporate Name

Section 1. CORPORATE NAME.

That all the inhabitants of the City of Burkburnett, in Wichita County, Texas, as the boundaries and limits of said city are herein established, shall be a body politic, incorporated under and to be known by the name and style of the "CITY OF BURKBURNETT," with such powers, rights and duties as are herein provided.
(Adopted May 8, 1923)

ARTICLE II

Municipal Boundaries

Section 1. BOUNDARIES.

That all the territory in Wichita County, Texas, contained within the following limits be and the same is hereby created into a city to be known as the City of Burkburnett, as aforesaid, to-wit:

Beginning at a point on the North line of Ninth Street, the same being the original Northeast corner of Burkburnett, Texas, as shown by map recorded in Deed Book 46, page 364, Wichita County records;

Thence North 67 degrees, 30 minutes East with the prolongation of the North line of Ninth Street, 50 feet to the East line of Avenue F;

Thence South 22 degrees, 30 minutes East with the East line of Avenue F, 250 feet to the South line of the Meridian road;

Thence East with the South line of the Meridian road 2,574.8 feet to the East line of Outer Block No. 16, as shown by map recorded in Deed Book 47, page 439;

Thence South with the East line of Outer Block No. 16, 1,290 feet to the Southeast corner of said Outer Block No. 16;

Thence East with the South line of Outer Block No. 17, 660 feet to the Southeast corner of said Outer Block No. 17;

Thence South with the East lines of Outer Blocks Nos. 18 and 25 and Block No. 9 of the Red River Valley Lands Map, of which is recorded in Deed Book 46, page 353, 3,960 feet to a point 653.5 feet North of the Southeast corner of said Block No. 9, Red River Valley Lands;

Thence West with the North line of Lelia Park Avenue, 2,595.7 feet to the East line of Avenue D, said point being 33 feet East of the center of the concrete roadway;

Thence South with the East line of Avenue D, 164.5 feet;

Thence West with the North line of the A.L. Gregg tract out of the G.W. Darby survey, Abstract No. 419, 3,807.4 feet;

Thence North parallel with the East line of the Wm. P. Dubose survey, Abstract No. 335, 2,496.7 feet to a point 25 feet South of the center line of the concrete roadway on the Burk-Clara Road;

Thence South 87 degrees, 30 minutes West, parallel with the Burk-Clara Road, 18 feet;

Thence North with the West line of the Nunley three acre tract out of the Wm. P. Dubose survey, 714 feet;

Thence North 87 degrees, 30 minutes East, parallel with the Burk-Clara Road, 1,188 feet to a point on the East line of the Wm. P. Dubose survey;

Thence North with the East line of the Wm. P. Dubose survey 1,582.5 feet to the intersection of the East line of the Wm. P. Dubose survey and the prolongation of the North line of Ninth Street;

Thence North 67 degrees, 30 minutes East with the North line of Ninth Street 2,030 feet to the place of beginning.
(Adopted May 8, 1923)

Section 2. EXTENSION OF CITY LIMITS.

The governing body of the City of Burkburnett, may, at any time by resolution or ordinance, submit the matter of extending the boundary limits of said city and annexing additional territory lying adjacent to said city, to the vote of the inhabitants of said city who are qualified to vote for members of the state legislature, and should a majority of the persons voting at such election vote to so extend the city limits and annex such additional territory, the governing body of said city shall pass an ordinance extending said limits and annexing said territory and from thenceforth the territory so annexed shall be a part of said city; and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens and subject to all the provisions of this Charter and all ordinances passed hereunder.
(Adopted May 8, 1923)

Section 3. PLATTING OF PROPERTY.

That should any property lying within the city limits, as the city limits are herein established, or may be hereafter established, or should any property lying without and adjacent to the city limits, be hereafter platted into blocks and lots, the owner or

owners of said property shall plat and lay the same off to conform to the streets and alleys of the city abutting on same, and shall, before making such plat or map an official record of the county and before same is filed for record in the office of the County Clerk of Wichita County, file with the governing body of the city a true copy thereof; and which said map the governing body of the city shall cause to be verified and, if found correct, shall be approved by said governing body; provided, that in no case shall the City of Burkburnett be required to pay for any of said streets or alleys, at whatever date opened, but when opened by reason of the platting of said property, at whatever date platted, they shall become, by such act, property of the City of Burkburnett, if within the corporate boundaries, for use as public highways, and shall be maintained and cared for as such.
(Adopted May 8, 1923)

ARTICLE III

Corporate Powers

Section 1. GENERAL.

The City of Burkburnett, made a body politic and corporate by the legal adoption of this Charter, shall have perpetual succession; may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places and in all matters whatever; may take, hold, and purchase such lands, within or without the city limits, as may be needed for corporate purposes of said city, and may sell any real estate or personal property owned by it; perform and render all public services, and when deemed expedient may condemn property for corporate use, and may hold, manage and control the same, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city as a corporation, not in conflict with the provisions of this Charter, and shall enjoy all rights, immunities, powers, privileges and franchises now possessed by said city and herein conferred and granted.
(Adopted May 8, 1923)

Section 2. POWERS; ORDINANCES.

The City of Burkburnett shall have the power to enact and enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances, and preserve and enforce good government, and order and security of the city and its inhabitants; and to enact and enforce ordinances on any and all subjects; provided that no ordinance shall be enacted inconsistent with the provisions of this Charter, or General Laws or Constitution of the State of Texas; it being the intention to obtain, by the adoption of this Charter, full power of local government, and the City of Burkburnett shall have and exercise all the powers of local government, granted to cities having more than five thousand inhabitants by what is known as the Home Rule Amendment to the Constitution of the State of

Texas, and by the Home Rule Enabling Act passed by the legislature of Texas in 1913, and now known as Chapter 17 of Title 22 of the Revised Statutes of this State.
(Adopted May 8, 1923)

Section 3. STYLE OF ORDINANCES.

The style of all ordinances of the City of Burkburnett shall be: "Be it ordained by the Board of Commissioners of the City of Burkburnett," but the same may be omitted when the ordinances of the city are codified and published in book or pamphlet form by the City of Burkburnett, or under the authority of its governing body.
(Adopted May 8, 1923)

Section 4. REAL ESTATE, ETC. OWNED BY THE CITY.

All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, fire stations, parks, streets and alleys, and all property, whether real or personal, of whatever kind, character or description now owned or controlled by the City of Burkburnett, shall vest in, inure to, remain and be the property of said City of Burkburnett under this Charter; and all causes of action, choices in action, rights or privileges of every kind and character and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Burkburnett for public uses or in trust for the public, shall vest in and remain and inure to the City of Burkburnett under this Charter, and all suits and pending actions to which the City of Burkburnett heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the adoption of this Charter, but shall be continued unabated.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 5. ACQUISITION OF PROPERTY.

The City of Burkburnett shall have the power and authority to acquire by purchase, gift, devise, deed, condemnation or otherwise any character of property, within or without its municipal boundaries, including any charitable or trust funds.
(Adopted May 8, 1923)

Section 6. PUBLIC PROPERTY EXEMPT FROM EXECUTION.

No public property, or any other character of property, owned or held by the City of Burkburnett, shall be subject to any execution of any kind or nature.
(Adopted May 8, 1923)

Section 7. CITY FUNDS NOT SUBJECT TO GARNISHMENT.

No funds of the City of Burkburnett shall be subject to garnishment, and the City of Burkburnett shall never be required to answer in any garnishment proceedings.
(Adopted May 8, 1923)

Section 8. EXEMPTION FROM LIABILITY FOR DAMAGES.

The City of Burkburnett shall not be liable to any person for damages caused from public buildings or structures, streets, alleys, avenues, highways, public grounds, crossings, bridges and sidewalks being out of repair from the negligence of the city, its officers, agents or employees, unless the same shall have remained so for ten days after special notice in writing has been given to the Mayor of said city, or to the City Manager; provided, the City of Burkburnett shall not be liable, under any circumstances, for damages suffered by any person by reason of any sidewalk, street or other public thoroughfare being out of repair if it appears that the defect in such sidewalk, street or other public thoroughfare consists of the failure on the part of the abutting property owner to provide adequate sidewalks in front of and abutting on his property, for failure of such property owner to pave or otherwise improve that part of the street or other public thoroughfare made incumbent upon him to pave or otherwise improve under this Charter or any valid ordinance of the City of Burkburnett; and the City of Burkburnett shall be exempt from liability for claims for damages growing out of torts due to any act of negligence on the part of its officers, agents or employees.
(Adopted May 8, 1923)

Section 9. CITY NOT REQUIRED TO GIVE BOND.

It shall not be necessary in any suit or proceeding in which the City of Burkburnett is a party for any bond, undertaking or other security to be demanded or executed by or on behalf of the city in any of the State courts, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond had been given, and the City of Burkburnett shall be liable as if the necessary security or bond had been duly executed.
(Adopted May 8, 1923)

Section 10. RIGHT OF EMINENT DOMAIN.

The City shall have the full power and right to exercise the power of eminent domain where necessary or desirable to carry out any of the powers conferred upon it by this Charter or by the Constitution and laws of the State of Texas. The City may exercise the power of eminent domain in any manner authorized or permitted by the Constitution and laws of the State. The power of eminent domain hereby conferred shall include the right of the City to take the fee in land so condemned and such power and authority shall include the right to condemn public property for such purposes. The City shall have and possess the power of condemnation for any municipal or public purposes even though not specifically enumerated in this Charter.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 11. CONTROL AND IMPROVEMENT OF STREETS, ETC.

The City of Burkburnett shall have exclusive dominion, control and jurisdiction, in, over and under the public streets, avenues, alleys, highways and boulevards and public grounds of the city, and to provide for the improvement of any public street, alley, highway, avenue or boulevard, by paving, raising, grading, filling or otherwise improving the same and to charge the cost of making such improvements against the abutting property, by fixing a lien against the same, and a personal charge against the owner according to an assessment specially levied therefor in an amount not to exceed the special benefit any such property received in enhanced value by reason of making such improvement and to provide for the issuance of assignable certificates covering the payments for said costs; provided, that in no event shall more than three-fourths of the costs of such improvement be charged to the owner and made a lien against said abutting property; provided, further that all railways shall pay the cost of maintaining railroad crossings with public streets to a standard which is not less than that required by applicable law but the city may assist in improving railroad crossings to a standard in excess of the minimum applicable standards.
(Adopted May 8, 1923; Am. Ord. 780, passed 5-11-10, as amended by election held on May 8, 2010)

Section 12. ASSESSING COST OF STREET IMPROVEMENTS AGAINST OWNERS.

The governing body of the City of Burkburnett shall have full power to pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in the next preceding section of this Article, and all ordinances or resolutions necessary or proper to give full force and effect to all the provisions contained in Chapter 11 of Title 22 of the Revised Civil Statutes of this State, and it shall be the duty of said governing body to pass and adopt all such ordinances or resolutions as soon as practicable after this Charter takes effect.
(Adopted May 8, 1923)

Section 13. CONSTRUCTION OF SIDEWALKS AND CURBS, ASSESSMENTS.

The City of Burkburnett shall have the power to provide for the construction and building of such sidewalks, and to charge the

entire cost of construction of such sidewalks, including the curbs, against the owner of the abutting property and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such costs. Should any person or corporation owning land in the City of Burkburnett fail or refuse to construct sidewalks and curbs, in front of or abutting on their property, in accordance with this Charter, or any ordinance now in effect in this city, or any ordinance passed by the governing body under this or any other power conferred by this Charter, the city shall have the right to have sidewalks or curbs, both or either, constructed in accordance with such ordinances at the expense of the abutting property owner, and in addition to fixing a lien against the property for the expense thereof, may also recover a personal judgment against such abutting owner in any court having competent jurisdiction of the amount, for the cost and expense in constructing such sidewalks and curbs, with ten percent additional for attorney's fees.
(Adopted May 8, 1923)

Section 14. SIDEWALKS, WHEN DEFECTIVE, MAY BE DECLARED A NUISANCE.

The City of Burkburnett shall have the power to provide for the construction, improvement or repair of any such sidewalk, or the construction of any such curbs, as is mentioned in the next preceding section by penal ordinances, and to declare defective sidewalks to be a public nuisance.
(Adopted May 8, 1923)

Section 15. STREET POWERS.

The City of Burkburnett shall have the power to lay out, establish, open, alter, extend, widen, straighten, lower, grade, narrow, care for, supervise, maintain and improve any public street, alley, avenue or boulevard, and for any such purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain. The City of Burkburnett shall also have the power to vacate and abandon and sell and convey in fee that portion of any street, alley, avenue, boulevard or other public thoroughfare or public grounds, and to convey in fee the same in exchange for other lands over which any street, alley, avenue or boulevard may be laid out, established and opened, and the city's rights to sell and dispose of in fee any part of a street, alley, avenue or boulevard so vacated and abandoned, or the city's right to convey same in exchange for other lands to be use in laying out, opening, widening and straightening any street, shall never be questioned in any of the courts of this State.
(Adopted May 8, 1923)

Section 16. EXCLUSIVE RIGHT TO OWN, MAINTAIN AND OPERATE WATER WORKS, ETC.

The City of Burkburnett shall have the exclusive right to own, erect, improve, maintain and operate water works systems for the use of said city and its inhabitants; shall regulate the same and have

power to prescribe rates for water furnished, and to acquire by purchase, donation, condemnation or otherwise suitable grounds, within or without the limits of the city on which to erect any such works and the necessary right-of-way, and to do and perform whatsoever may be necessary to operate and maintain such water works or water works systems, and to compel the owners of all property and the agents of such owners or persons in control thereof, to pay all charges for water furnished upon such property and to fix a lien upon such property for any such charges. And the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions herein contained with reference to fixing a lien upon the property where such service may be furnished.
(Adopted May 8, 1923)

Section 17. EXCLUSIVE RIGHT TO OWN, OPERATE AND MAINTAIN SEWER SYSTEMS, ETC.

The City of Burkburnett shall have the exclusive right to own, erect, maintain and operate sewer system or sewage systems and sewage disposal plants, filtering beds and emptying grounds for sewage systems, for the use of said city and its inhabitants; to regulate the same and to have power to prescribe rates for the service so furnished and to acquire by purchase, donation, condemnation or otherwise suitable grounds, within or without the limits of the city, on which to erect any such sewer system or systems, sewage disposal plant or plants, and filtering beds and emptying grounds for sewer systems, and the necessary right-of-way, and to do and perform whatsoever may be necessary to operate and maintain said sewer system or systems, sewage disposal plants, filtering beds and emptying grounds for sewer systems, and to compel owners of property and the agents of such owners or persons in control thereof to pay all charges for sewer service furnished upon such property and to fix a lien upon such property for any such charges. And the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions herein contained with reference to fixing a lien upon the property where such service may be furnished.
(Adopted May 8, 1923)

Section 18. ACQUISITION AND OWNERSHIP OF OTHER PUBLIC UTILITIES.

The City of Burkburnett shall have the power to buy, own, construct and to maintain and operate, within or without the city limits, a system or systems, of gas, or electric lighting plants, power plants, telephones, street railways, fertilizing plants, abattoirs, municipal railway terminals, loading and unloading devices, and shipping facilities, or any other public services or public utilities and to demand and receive compensation for services furnished for private purposes or otherwise, and to exercise the right to eminent domain for the appropriations of lands, rights-of-way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. And said City of Burkburnett shall have the power to acquire by lease, purchase or condemnation, the property or any part thereof of any person, firm or corporation now or hereafter conducting

any such business, for the purpose of operating such public utility or utilities and for the purpose of distributing such service throughout the city or any part thereof, and the governing body of said city shall pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in this section. (Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 19. METHOD OR ARRIVING AT VALUE OF PUBLIC UTILITY, WHETHER BY PURCHASE OR CONDEMNATION.

That, in acquiring any such privately owned utility, as is mentioned in the next preceding section of this Article, if by purchase, and should the owner or owners of such utility and the governing body of said city be unable to agree upon the price, the terms of such purchase shall be determined by a Board of Arbitration consisting of three members to be appointed as follows: One member by the owner or owners of the utility to be purchased; one member by the governing body of the City of Burkburnett; and the third member to be selected by these two. If the two members shall be unable to agree upon the third member of said Board, then such third member shall be appointed by the County Judge of Wichita County, Texas. if such utility, however, should be acquired by condemnation proceedings, such proceedings shall be controlled, as nearly as practicable, by the laws governing the condemnation of property by railroad corporations in this State, the city taking the position of the railroad corporation in such cases.
(Adopted May 8, 1923)

Section 20. FAIR VALUATION.

Said Board of Arbitration, provided for in the next preceding section of this Article, in arriving at a fair evaluation at which said utility may be sold to the city, shall not take into consideration the value of any franchise or grant held by the owner or owners of the utility from the city or any other intangible value of such utility, but merely a fair value for the tangible property in use by the utility in its business of supplying the public with such service as it may then be furnishing.
(Adopted May 8, 1923)

Section 21. FUNDS FOR ACQUISITION OF PUBLIC UTILITY.

That should the City of Burkburnett at any time determine to acquire any public utility by purchase, condemnation or otherwise, as herein provided, said city shall have the power to obtain the funds for the purpose of acquiring such public utility and paying the compensation therefor by issuing bonds or notes, or other evidence of indebtedness and shall secure the same by fixing a lien upon the property constituting the public utility so acquired and said security shall apply alone to said property so pledged.
(Adopted May 8, 1923)

Section 22. AFTER ACQUIRING PARTICULAR UTILITY, CITY'S RIGHT EXCLUSIVE.

That should the City of Burkburnett acquire by purchase, condemnation or otherwise, any public service utility mentioned in section 18 of this Article, for the purpose of servicing said city and the inhabitants thereof, its right to operate and maintain such public service utility so acquired shall thereafter be exclusive. (Adopted May 8, 1923)

Section 23. PUBLIC UTILITY PRODUCTS, RIGHT TO MANUFACTURE OR PURCHASE.

The City of Burkburnett shall have the authority to manufacture its own electricity, gas or anything else that may be needed or used by it or the inhabitants of said city; to make contracts with any person, firm or corporation for the purchase of gas, electricity or any other commodity or articles used by it or the public, and to sell same to the public as may be determined by the governing body of said city. (Adopted May 8, 1923)

Section 24. PARKS, PLAYGROUNDS, ETC.

The City of Burkburnett shall have exclusive control of all city parks and playgrounds, whether within or without the city limits, and to control, regulate and remove all obstructions and prevent all encroachments thereupon; to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings and other structures, providing amusements therein, for establishing walks and paving driveways around, in and through said parks, playgrounds and other public grounds; to have power to police all parks or grounds, speedways, or boulevards owned by it and lying outside of the municipal boundaries. (Adopted May 8, 1923)

Section 25. UNDERGROUND CONSTRUCTION, FIRE LIMITS.

The City of Burkburnett shall have the power to require the placing of all wires or other overhead construction of public utilities under the surface of the ground on all streets, avenues and other public grounds within the fire limits of said city, as said fire limits are established in this Charter, or as the same may hereafter be added to by the governing body of said city, or to require the utilities now operating within said city to remove such overhead construction to the alleys where it may be re-constructed above grounds provided that where necessary in order to feed the alleys one main aerial lead may be permitted, and provided, further, that each telephone company now or hereafter using the streets, avenues or other public grounds within said city, may maintain not more than one open wire aerial toll lead. The work of changing all overhead construction to underground, or removing same from the streets, avenues and other public grounds to the alleys, within said fire limits by the public service utilities now

operating in the City of Burkburnett, shall be completed within twelve months after official notice has been served by the governing body of said city; and it shall be the duty of the governing body of said city, immediately after this Charter shall become effective, to pass and adopt all ordinances or resolutions necessary and proper to give full force and effect to the provisions contained in this section, and to the end that same may be fully complied with by all public service utilities within the time herein fixed.
(Adopted May 8, 1923)

Section 26. UNDERGROUND CONSTRUCTION, OUTSIDE FIRE LIMITS.

The City of Burkburnett shall have the power to require the placing of all wires or other overhead construction of public utilities, under the surface of the ground on all streets, avenues, and other public grounds outside the fire limits, where underground construction is feasible and where not feasible, to require the utilities now operating within said city outside of the fire limits to remove such overhead construction to the alleys, where it may be constructed above ground; provided, that where necessary, in order to feed the alleys, one main aerial lead may be permitted covering each eight blocks of territory. The work of changing all overhead construction to underground, or removing same from the streets, avenues and other public grounds to the alleys, outside the fire limits, by the public service utilities now operating in the City of Burkburnett, shall be completed on or before twelve months after official notice has been served by the governing body of said city; and it shall be the duty of the governing body of said city, immediately after this Charter shall become effective, to pass and adopt all ordinances or resolutions necessary and proper to give full force and effect to the provisions contained in this section, and to the end that same may be fully complied with by all public service utilities within the time herein fixed.
(Adopted May 8, 1923)

Section 27. OVERHEAD CONSTRUCTION, NEW WORK.

That no franchise shall hereafter be granted, and no franchise now in effect shall be amended or renewed by the governing body of the City of Burkburnett, permitting such overhead construction as is mentioned in the next two preceding sections of this Article, except in alleys and in accordance with the provisions contained in said sections; and provided, further, that all new construction put in by public service utilities now operating in the City of Burkburnett shall be underground, or in the alleys and in accordance with the provisions contained in said sections 25 and 26 of this Article.
(Adopted May 8, 1923)

Section 28. FUNDS OF WATER AND SEWER DEPARTMENTS TO BE SACRED.

That all receipts from the Water Works and Sewer Departments, and which Departments are now operated as if one utility, shall hereafter constitute a separate and sacred fund, which shall be used for not other purpose than the extension, improvement, operation,

maintenance, repair and betterment of said water works and sewer systems; provided, that the governing body of the city may pledge the receipts and revenues of said Departments for the purpose of making any such improvements to said water works and sewer systems, and the payment of the principal and providing an interest and Sinking Fund for any bonds issued therefor, and under such regulations as are provided by this Charter and ordinances passed in pursuance thereof.
(Adopted May 8, 1923)

Section 29. FUNDS OF UTILITIES HEREAFTER ACQUIRED SHALL BE SACRED TO SUCH UTILITY.

That should the City of Burkburnett hereafter acquire by purchase, condemnation or otherwise, any public service utility, as it is empowered to do under section 18 of this Article, then the receipts and revenues from such utility shall constitute a separate and sacred fund, and which shall be used for no other purposes than to pay the purchase price, and the extension, improvement, operation, maintenance, repair and betterment of such utility; provided, however, the governing body of the city may pledge such receipts and revenues for the purpose of acquiring such utility and making any of such improvements, and the payment of the principal and providing an Interest and Sinking Fund for any bonds issued for said purpose.
(Adopted May 8, 1923)

Section 30. RESERVED.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 31. RESERVED.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 32. RESERVED.

(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 33. DANGEROUS BUILDINGS, CONDEMNATION AND REMOVAL THEREOF.

The City of Burkburnett shall have the power to provide for the condemnation of damaged structures or buildings or dilapidated building or buildings calculated to increase the fire hazard within the fire limits, and to prescribe the manner of their removal. or destruction. And the governing body of the City of Burkburnett shall have power to pass all ordinances or resolutions necessary or proper to give full force and effect to the provisions contained in this section to the end that the fire hazards now existing within the fire limits prescribed by this Charter may be reduced to the minimum.
(Adopted May 8, 1923)

Section 34. OTHER ENUMERATED POWERS.

In addition to the powers hereinbefore specifically enumerated, said city shall have the power to define all nuisances, prohibit the same within the city and outside the city limits for a distance of five thousand feet.

To police all parks, grounds, speed ways, streets, avenues and alleys owned by said city within or without the city limits.

To prohibit the pollution of all sources of water supply of said city, and to provide for the protection of water sheds.

To inspect dairies, slaughter pens, and slaughter houses, inside and outside the city limits of the city, from which meat or milk is furnished to the inhabitants of the city.

To license, operate and control the operation of all character of vehicles using public streets, and to prescribe the speed of the same, the qualifications of the operator of the same, and the lighting of the same by night and to provide for the giving of bond or other security for the operation of same.

To regulate, license and fix charges of fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or transportation of freight for hire on the public streets and alleys of the city.

To license any lawful business, occupation or calling that is susceptible to the control of the police power.

To license, regulate, control or prohibit the erection of signs or bill boards within the corporate limits of said city.

To provide for Police and Fire Departments.

To provide for a Health Department and to establish all necessary rules and regulations protecting the health of the city and the establishment of quarantine stations and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

To require property owners to make connections with the sewer system with their premises and to provide for fixing a lien against any property owner's premises, who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability, also provide for fixing penalties for failure to make sanitary sewer connections, provided the sewer system is owned and operated by the city.

To provide that gas companies, street car companies, telephone companies, telegraph companies and electric light companies or any other companies or individuals enjoying a franchise now or hereafter from the city to make and furnish extension of their service to such territory within the corporate limits as may be prescribed from time to time by ordinance.

To provide for the regulation and control of plumbers and plumbing works and to require efficiency in the same.

To provide for the inspection of weights, measures and meters and fix a standard of such weights, measures and meters, and to require conformity to such standards, and to provide penalties for failure to use or conform to the same, and to provide for inspection fees.

To provide for the issuance of permits for erecting all buildings; for the inspection of the construction of buildings, in respect to proper wiring for electric lights and other electric appliances; piping for gas, flues, chimneys, plumbing and sewer connections, and to enforce proper regulations in regard thereto.
To provide for the enforcement of all ordinances enacted by the city, by a fine not to exceed the amount allowed by state law; provided, that no ordinances enacted by the city shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this State.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 35. CLEANSING PREMISES, ABATING UNHEALTHFUL PLACES, ETC.

The governing body of the City of Burkburnett shall have the power to require the filling up, drainage and regulating of any lot or lots, ground or yards, or any other places in said city which shall be unwholesome, or have stagnant water therein, or from any other cause be in such condition as to be liable to produce disease; also to cause all premises to be inspected and to impose fines on the owners of houses under which stagnant water may be found, or upon whose premises such stagnant water may be found and to pass such ordinances as it may deem necessary for the purposes aforesaid and for making, filling up, altering or repairing of all sinks, and privies, and directing the mode and material for constructing them in future, and for cleansing and disinfecting the same; and for cleansing of any house, building, establishment, lot, yard or ground from filth, carrion or impure or unwholesome matter of any kind; also to require the owner of any lot or lots within said city to keep the same free from weeds, rubbish, brush and any and all other objectionables, unsightly or unsanitary matter of whatever nature, and in the event such owner fails or refuses so to do; within ten days afer notice in writing, or by letter addressed to such owner at his post office address, or by publication as many as two times within ten consecutive days, if personal service may not be had as aforesaid, or the owner's address be not known, said city may do such work or may cause the same to be done and pay therefor and charge the expenses incurred in doing or having such work done or improvements made to the owner of such property, as herein provided; and to punish any owner or occupant violating the provisions of any ordinance so passed, as aforesaid; and the governing body of the City of Burkburnett shall also in addition to the foregoing remedy, have the power to cause any of the improvements above mentioned to be done at the expense of the city, on account of the owners, and cause the expense thereof to be assessed on the real estate, or lot or lots upon which such expense is incurred; and, on filing with the County Clerk of Wichita County,

Texas, a statement by the Mayor or City Health Officer of said city shall have a privileged lien thereon, second only to tax liens and liens for street improvements to secure the expenditures so made, and ten percent interest on the amount from the date of such payment. For any such expenditures, and interest, as aforesaid, suit may be instituted and recovery and foreclosure had in the name of the City of Burkburnett in any court having jurisdiction; and the statement so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in such work or improvements.
(Adopted May 8, 1923)

Section 36. ENUMERATED POWERS NOT EXCLUSIVE.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City of Burkburnett shall have and may exercise all other powers which, under the Constitution and laws of this State, it would be competent for this Charter to specifically enumerate.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

ARTICLE IV

Municipal Government

Section 1. GOVERNING BODY.

The governing body of the City of Burkburnett shall consist of seven commissioners, one of whom shall be the Mayor, and said body shall be known as the "Board of Commissioners."
(Adopted May 8, 1923; as amended by election held on April 4, 1967)

Section 2. ELECTIVE OFFICERS.

The elective officers of the City of Burkburnett shall consist of a mayor and six (6) commissioners. The mayor and commissioners shall be elected from the City at large by the qualified voters and serve for a term of three (3) years, and until their successors have been elected and duly qualified.

Beginning at the May 2019 election, the qualified voters of the City shall elect the mayor and commissioners for Place 1 and Place 2. Individuals running for mayor will run for the position of mayor. The individual receiving the highest number of votes shall serve as mayor for a term of three years. Individuals running for commissioner will run for the position of commissioner. The individual running for commissioner receiving the highest vote total will fill Place 1 for a term of two years. The individual receiving the second highest vote total will fill Place 2 for a term of two years. After the completion of the initial term of two years, all subsequent elections for Place 1 and Place 2 shall be for a term of three years.

Beginning at the City election held in May 2020, the qualified voters of the City shall elect the commissioners for Place 3, Place 4, Place 5 and Place 6. The individual receiving the highest vote total will fill Place 5 for a term of three years. The individual receiving the second highest vote total will fill Place 6 for a term of three years. The individual receiving the third highest vote total will fill Place 3 for a term of two years. The individual receiving the fourth highest vote total will fill Place 4 for a term of two years. After the completion of the initial term of two years, all subsequent elections for Place 3 and Place 4 shall be for a term of three years.

Provided that if at any election, special or general, two or more candidates receive the same number of votes said candidates shall cast lots to determine who shall be entitled to the office.
(Adopted May 8, 1923; as amended by election held on April 4, 1967; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 3. OFFICERS, OATH OF.

All officers of the city, whether elective or appointive, shall qualify by taking the oath prescribed by the Constitution of this State, and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the city.
(Adopted May 8, 1923)

Section 4. FIRST ELECTION OF COMMISSIONERS UNDER THIS CHARTER.

Should this Charter be adopted, it shall become the duty of the present Mayor and City Council to call an election to be held within ten days after the adoption of this Charter for the election of five commissioners for the terms as specified in section 2 of this Article; and the five candidates receiving a plurality of the votes cast at such election shall be declared elected and shall immediately qualify under this Charter, and the Board of five Commissioners shall succeed the present Mayor and City Council as the governing body of the City of Burkburnett.
(Adopted May 8, 1923)

Section 5. TERM LIMITS.

A candidate for a position as a member of the Board of Commissioners of the City of Burkburnett shall not be eligible to run for that office if such person has served, or is in the process of completing, five consecutive terms on the Board of Commissioners at the time such person files for election. For purposes of this provision: (i) a person serving a partial term of one year or less shall not be considered to have served a full term but a person serving a partial term of more than one year shall be considered to have served a full term and (ii) the remainder of the term of any person serving on the Board of Commissioners at the time this amendment is approved shall not be considered as part of the five term limitation set forth in this Section.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 6. VACANCIES IN OFFICE.

(A) A single vacancy in the Board of Commissioners for an unexpired term of twelve (12) months or less shall be filled within thirty (30) days of the occurrence of the vacancy by an affirmative vote of at least four of the remaining members of the Board by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular City election. Vacancies for an unexpired term of greater than twelve (12) months must be filled by majority vote of the qualified voters at a special election called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies.

(B) When more than one vacancy shall develop at any one time, a special election shall be called by the Board of Commissioners for the next date available under the Texas Election Code to fill the vacancies in the same manner as described herein for regular elections. However, if the vacancies occur within ninety (90) days of a regular election, then no special election shall be called and the remaining Commissioners shall appoint qualified persons to fill the vacancies until the regular election.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 780, passed 5-11-10, as amended by election held on May 8, 2010; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 7. MAYOR PRO-TEM.

At the first meeting of the Board of Commissioners held after each general election in May, the Board shall elect one of its members to preside as Mayor Pro-Tem. The Mayor Pro-Tem shall have and exercise all powers of Mayor in the absence of the Mayor or during the disability from any cause of the Mayor.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 8. COMMISSIONERS, THEIR QUALIFICATIONS.

Each member of the Board of Commissioners shall be a resident citizen of the City of Burkburnett; shall have the qualification of an elector therein, and shall have been such resident citizen of the City of Burkburnett for a period of not less than one year immediately preceding his election; provided, however, that any qualified elector, who shall have been a resident for a period of not less than one year immediately preceding his election of any of the territory not formerly within the corporate limits of said city, but which is annexed under this Charter, or that may hereafter be annexed in conformity to the provisions of this Charter, shall be eligible to said office.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 9. COMPENSATION OF COMMISSIONERS.

The members constituting the Board of Commissioners shall receive as compensation for their services the sum of five dollars for each meeting of the Board attended by them, but they shall receive in no year more than the sum of one hundred and twenty five dollars.
(Adopted May 8, 1923)

Section 10. RESERVED.

Former section 10, Restrictions upon Commissioners, was repealed by municipal election on February 2, 2002.

Section 11. LEGISLATIVE BODY.

The Board of Commissioners shall constitute the Legislative and Governing Body of the city, and shall have and exercise all the powers and authority herein granted. It shall pass and adopt all needful ordinances and resolutions, and adopt all the necessary regulations governing the different departments of the city and not inconsistent with the provisions of this Charter and the Constitution and General Laws of this State.
(Adopted May 8, 1923)

Section 12. DUTIES OF MAYOR.

The mayor of the City of Burkburnett shall preside over the meetings of said Board and perform such other duties consistent with the office as may be imposed upon him by this Charter and ordinances and resolutions passed in pursuance hereof. He may participate in the

discussion of all matters coming before the Board and shall be entitled to a vote as a member thereof on all legislative and other matters but shall have no veto power. He shall sign all contracts entered into by the City and all bonds issued under the provisions of this Charter, and shall be the chief executive officer of the City. He shall be recognized as the official head of the City by the courts for the purpose of serving civil process, by the Governor for the purpose of enforcing military law, and for all ceremonial purposes. In times of danger and emergency, the Mayor, may, with the consent of the Board of Commissioners, take command of the police and govern the City by proclamation and maintain order and enforce all laws.
(Adopted May 8, 1923; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 13. MEETINGS OF THE BOARD OF COMMISSIONERS.

The Board of Commissioners shall meet in regularly scheduled meetings at least once each month at such time as the members may prescribe by rule.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 14. SPECIAL MEETINGS OF THE BOARD.

The Mayor, any member of the Board of Commissioners, or the City Manager, may call special meetings of the Board of Commissioners at any time following notice, as required by state law, which shall in addition to any other requirements regarding service be served on each member of the Board personally or by leaving same at the usual place of business or residence of such members. A special meeting may be held at any time without written notice to members of the Board provided all members of the Board are present and provided notice of the meeting is given in accordance with state law.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 15. BOARD TO BE JUDGE OF ELECTION OF ITS MEMBERS.

The Board of Commissioners shall be the judge of the election and qualification of its own members.
(Adopted May 8, 1923)

Section 16. RULES OF THE BOARD.

The Board of Commissioners shall determine its own rules of procedure. The Board may remove any member upon a vote in compliance with Article IV, Section 17 of this charter finding that a member: (i) lacks, at any time during the term of office, any qualification for office prescribed by law or by this charter, (ii) violates any express prohibition of this Charter or (iii) fails to attend three consecutive regular meetings of the Board of Commissioners without the approval of the Board of Commissioners.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 17. LEGISLATIVE PROCEDURE.

A majority of the members of the Board of Commissioners shall constitute a quorum to do business and the affirmative vote of a majority of the entire Board shall be necessary to adopt any ordinance or resolution. All meetings of the Board shall be public, except when otherwise directed by the Board, and minutes of its proceedings shall be kept, to which any citizen may have access at all reasonable times and which shall constitute one of the archives of the city. The vote upon the passage of all ordinances and resolutions shall be taken by the "ayes" and "nays" and entered upon the minutes, and every ordinance or resolution, upon its final passage, shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the person performing the duties of City Clerk or Secretary.
(Adopted May 8, 1923; as amended by election held on April 4, 1967)

Section 18. ORDINANCES, ENACTMENT OF.

(A) Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly expressed in the title.

(B) Seventy-two (72) hours prior to the meeting at which a measure will be considered, a draft of the measure shall be filed with the City Clerk, and notice of that filing shall be posted at City Hall. The notice shall consist of the caption of the measure.

(C) The filing requirement set forth in subsection (B) preceding shall not apply to measures which are required because of an emergency. For purposes of this provision, an "emergency" shall mean a matter involving an urgent public necessity because of an imminent threat to public health and safety or a reasonably unforeseen situation. The factual basis for the emergency shall be clearly stated in the measure. An emergency measure otherwise subject to the filing requirement of subsection (B) above but that does not comply with the filing requirement because of an emergency may not be passed unless four members of the Board of Commissioners vote in its favor; regardless of the number of Commissioners present at the meeting at which the measure is considered. Nothing in this section shall be construed to prohibit amendments to measures subject to the terms of this section when such measures are considered by the Board of Commissioners.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 19. RESERVED.

Former section 19, Emergency Measures, Defined, was repealed by municipal election on February 2, 2002.

Section 20. ORDINANCES, WHEN AND HOW PUBLISHED.

Every ordinance imposing any penalty, fine, imprisonment or forfeiture shall, after the passage thereof, be published in every issue of the official paper for ten days; if the official paper be published weekly, the publication shall be made in one issue thereof;

and proof of such publication shall be made by the printer or publisher of such paper, making affidavit before some officer authorized by law to administer oaths, and filed with the person performing the duties of City Clerk or Secretary and shall be prima facie evidence of such publication and promulgation of such ordinance in all courts of the State, and such ordinance so published shall take effect, and be in force, from and after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect, and be in force from and after the passage, unless otherwise provided.
(Adopted May 8, 1923)

Section 21. OFFICIAL ORGAN, CONTRACT FOR PUBLISHING, ETC.

The Board of Commissioners shall, as soon as may be after the commencement of each fiscal or municipal year, enter into contract with a public newspaper of the city as the official paper thereof, and to continue as such until another is selected, and shall cause to be published all ordinances, notices and other matters required by this Charter or by the ordinances of the city to be published.
(Adopted May 8, 1923)

Section 22. INDEX OF CHARTER AND REVISION AND CODIFICATION OF LAWS.

Should this Charter be adopted by the qualified electors of the city, then it shall become the duty of the Board of Commissioners, as soon thereafter as practical, to employ some competent attorney, who shall be well experienced in municipal law to carefully search the various records of the city and compile and report to said Board a list of the ordinances and resolutions then in force, with his recommendations as to which are obsolete and should be repealed or revised and which should continue in force. And said Board shall pass such ordinances or resolutions as may be necessary to repeal all such obsolete ordinances as may then appear to be in force, and pass and adopt such additional ordinances, in lieu thereof, as may be necessary to properly protect health, life and property and to prevent and summarily abate and remove all nuisances and to preserve and enforce good government, order and security of the city and its inhabitants, and such additional ordinances and resolutions as may be necessary to put into effect those provisions of this Charter which are not self-enacting and in aid of such other provisions as to said Board may seem necessary, including ordinances and resolutions covering departmental regulations, and after said obsolete laws shall have been repealed and such additional ordinances mentioned above shall have been passed by said Board, it shall be the duty of said Board to cause this Charter to be properly indexed and the then laws of said city to be carefully codified, by said attorney so employed, and this Charter and said laws published in book or pamphlet form "By authority of the Board of Commissioners of the City of Burkburnett."
(Adopted May 8, 1923)

Section 23. ORDINANCE, REVISION AND AMENDMENT.

The Code of Ordinances and ordinances of the city may be amended by ordinance. The ordinance amending the Code of Ordinances or an ordinance may contain only the portion of the Code of Ordinances or ordinance that is being amended.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 24. ORDINANCES, ADMISSIBILITY AS EVIDENCE.

Any ordinance or resolution appearing of record in the book mentioned in section 17 of this Article or a copy thereof duly certified by the person performing the duties of the City Clerk or Secretary, under the seal of said city, and all ordinances or resolutions of the City of Burkburnett, published in book or pamphlet form and purporting to be published "By Authority of the Board of Commissioners of the City of Burkburnett," shall be received by all courts of this State as prima facie evidence of the due passage and publication of such ordinance or resolution.
(Adopted May 8, 1923)

Section 25. CONTRACTS FOR PERSONAL SERVICES.

No contract shall ever be made which binds the city for personal services to be rendered for any stated period of time, but all appointive officers and employees shall be subject to preemptory discharge, and when discharged shall only be entitled to compensation up to and including the date of their discharge, any provision to the contrary in this Charter notwithstanding.
(Adopted May 8, 1923)

Section 26. DEPARTMENTS MAY BE CONSOLIDATED, ETC.

The Board of Commissioners may abolish or consolidate such offices and departments as it may deem to the best interest of the city, and may divide the administration of any such departments as it may deem advisable; create new departments and may discontinue any offices or departments at its discretion, except as to the offices of City Manager and City Comptroller.
(Adopted May 8, 1923)

Section 27. COMPENSATION, APPOINTIVE OFFICERS, ETC.

The Commission may fix and determine the salaries and wages of all appointive officers and employees of the city.
(Adopted May 8, 1923; as amended by election held on April 4, 1967)

Section 28. PAYMENT OF CLAIM.

No warrant for the payment of any claim shall be issued by the city unless such claim shall be evidenced by an invoice or itemized account, and approved by the City Manager and audited and approve by the Comptroller, and all warrants shall be signed by the City Manager and countersigned by the Comptroller.
(Adopted May 8, 1923)

Section 29. RESERVED.

Former section 29, Nepotism, was repealed by municipal election on February 2, 2002.

Section 30. RESERVED.

Former section 30, Hours of Service Upon Public Works, was repealed by municipal election on February 2, 2002.

Section 31. OFFICIAL BONDS OF CITY MANAGER AND COMPTROLLER.

The City Manager shall give an official bond in the sum of not less than Five Thousand ($5,000.00) Dollars, and the Comptroller an official bond in the sum of not less than Fifteen Thousand ($15,000.00) Dollars, payable to the City of Burkburnett and conditioned for the faithful discharge of the duties of such respective officers and for the faithful accounting for all monies, credits and things of value coming into the hands of such respective officers; and such bonds shall be signed as surety by some surety company authorized to do business under the laws of this State, and the premium on such bonds shall be paid by the City of Burkburnett.
(Adopted May 8, 1923)

Section 32. OFFICIAL BOND FOR OTHER OFFICERS AND EMPLOYEES.

The Board of Commissioners shall have the right to require official bond from other appointive officers and employees of the city, in such amounts as said Board may from time to time fix by ordinance or resolution, and conditioned for the faithful discharge of the duties of such officers or employees, and for the faithful accounting for all monies, credits and things of value coming into the hands of such officers or employees, and all such bonds shall be signed as surety by some surety company authorized to do business under the laws of this State, and the premiums accruing thereon shall be paid by the City of Burkburnett.
(Adopted May 8, 1923)

Section 33. AUDIT AND EXAMINATION OF THE CITY BOOKS AND ACCOUNTS.

The Board of Commissioners shall cause a continuous audit to be made of the books of accounts of each and every department of the city. Such audit shall be made by a certified public accountant, who shall be selected by said Board and contract entered into from year to year, and, if practicable, such contract shall provide that the books of the city shall be audited annually or in accordance with state law, the audit to be made at the close of the fiscal year and such auditor’s report to the Board, in a condensed form, shall be published at least once in the official paper of the city.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

ARTICLE IVa

Recall of Officers

Section 1. SCOPE OF RECALL.

Any member of the Board of Commissioners, whether elected to office by the qualified electors of the city or elected by said Board to fill a vacancy, shall be subject to recall and removal from office by the qualified electors of the city as in this Charter provided. (Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 2. PETITIONS FOR RECALL.

Before the question of recall of such officers shall be submitted to the qualified electors of the city, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Clerk or Secretary, which said petition shall be signed by at least thirty percent of the qualified voters of the city, to be determined by the latest poll tax list of said city. Each signer of such recall petition shall personally sign his name thereto in ink or indelible pencil, and shall write after his name, his place of residence, giving name of street and number, and shall also write thereon the day of the month and year his signature was affixed. (Adopted May 8, 1923)

Section 3. FORM OF RECALL PETITION.

The recall petition mentioned above must be addressed to the Board of Commissioners of the City of Burkburnett, and must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct, or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which he is charged. Said petition shall be signed by the requisite number of qualified electors as provided in section 2 of this Article. The signatures shall be verified by oath in the following form:

"State of Texas,
County of Wichita:

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

_____

Sworn to and subscribed before me this day ___ of ___ 19__.

_____

Notary Public in and for Wichita County, Texas."
(Adopted May 8, 1923)

Section 4. VARIOUS PAPERS CONSTITUTE PETITION.

The petition may consist of one of more subscription lists circulated separately and the signatures thereto may be upon the paper or papers containing the form of petition, or upon other papers attached thereto. Verification provided for in the next preceding section of this Article may be made by one or more petitioners, and the several parts of the petition may be filed separately and by different persons, but no signatures of such petition shall remain effective or be counted which were placed thereon more than thirty days prior to the filing of such petition or petitions with the person performing the duties of City Clerk or City Secretary. All papers and documents comprising a single petition, that is, all papers comprising a recall petition, shall be filed with the person performing the duties of City Clerk or City Secretary on the same day, and said Clerk shall immediately notify in writing the officer so sought to be removed. (Adopted May 8, 1923)

Section 5. CERTIFICATE TO PETITION.

Within twenty (20) days after the date of the filing of the papers constituting the recall petition, the City Clerk shall certify to the Board of Commissioners the number of qualified voters within the City of Burkburnett, shall further certify the number of qualified voters signing said petition, and shall present such petition and their certificate thereto to said Board. The City Clerk shall declare void any papers constituting the recall petition which does not meet the requirements of Section 3 of this Article. If the papers constituting the recall petition are found by the City Clerk to be insufficient, the City Clerk shall notify the person filing the petition. The person filing the petition shall have fifteen (15) days from the date of such notice to file an amended or supplementary petition signed and filed as prescribed in the original petition. Within ten (10) days after the person files the supplemental petition, the City Clerk shall examine the amended or supplemental petition and certify its sufficiency. If the City Clerk finds the amended or supplementary petition to be insufficient, there shall be no further proceedings on the petition. (Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 6. ELECTION TO BE CALLED.

If the commissioner whose removal is sought does not resign within five days after such recall petition shall have been duly certified to the Board of Commissioners, as provided in the next preceding section

of this Article, then it shall become the duty of said Board of Commissioners to order an election and fix a date for holding such recall election, and the date of which election shall not be less than fifteen nor more than thirty days from the time such petition was presented to the Board of Commissioners.
(Adopted May 8, 1923)

Section 7. RECALL ELECTION, FORM OF BALLOT.

The form of ballot to be used at such recall election shall be as follows:

"SHALL (name of person) BE REMOVED FROM THE OFFICE OF COMMISSIONER BY RECALL?"

Immediately following the above question there shall be provided on the ballot, in separate lines, in the order here set out, the words:

"For the Recall of (Name of the Person)."

"Against the Recall of (Name of the Person)."

Should a majority of the votes cast at such recall election be for the recall of such commissioner named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office. Should a majority of the votes cast at such recall election, however, be against the recall of the officer named on the ballot, such commissioner shall continue in office for the remainder of his term, subject to recall as before.
(Adopted May 8, 1923)

Section 8. RECALL, RESTRICTIONS THEREON.

No recall petition shall be filed against any commissioner of the Board of Commissioners of the City of Burkburnett, within six months after his election, nor within six months after an election for such officer's recall.
(Adopted May 8, 1923)

Section 9. BOARD OF COMMISSIONERS, FAILURE TO CALL AN ELECTION.

In case all of the requirements of this Charter shall have been met and the Board of Commissioners shall fail or refuse to receive the recall petition, or order such recall election, or discharge any other duties imposed upon said Board by the provisions of this Charter with reference to such recall, then the County Judge of Wichita County, Texas, shall discharge any of such duties herein provided to be discharged by the Board of Commissioners.
(Adopted May 8, 1923)

Section 10. ONE OR MORE COMMISSIONERS MAY BE RECALLED SAME ELECTION.

One or more commissioners may be recalled at the same election, and if, in such recall election, there shall as a result of such election, remain one or more commissioners, who is not recalled, then such commissioner or commissioners not recalled shall discharge all of the duties incumbent upon the governing body of said city until the vacancy or vacancies created at such recall election are filled by an election for that purpose, but if in any proposed recall election it is proposed and submitted to recall all members constituting said Board of Commissioners, then there shall be placed on said ballot under the question of recall, the names of candidates to fill the vacancies proposed to be created by such election, but the names of such commissioners proposed to be recalled, shall not appear on the ballot as candidates.
(Adopted May 8, 1923)

Section 11. VACANCIES IN BOARD DUE TO RECALL, HOW FILLED.

If at any recall election it is not proposed and submitted to recall all of the members constituting said Board of Commissioners, but only one or more and fewer than all, and such election shall result in favor of the recall of one or more of said commissioners, proposed to be recalled, then it shall be the duty of the remaining commissioners not recalled and constituting the governing body of the city, within five days after such election is held,, to meet, canvass the returns, declare the result of the election and on the same date order an election to fill such vacancy or vacancies, which election shall be held within not less than ten nor more than twenty days after the same shall have been ordered. No vacancy caused by recall shall be filled by the Board of Commissioners.
(Adopted May 8, 1923)

ARTICLE IVb

Legislation by the People, Initiative and Referendum

Section 1. GENERAL POWER.

The qualified electors of the City of Burkburnett, in addition to the method of legislation hereinbefore provided, shall have the power of direct legislation by the Initiative and Referendum.
(Adopted May 8, 1923)

Section 2. INITIATIVE.

The initiative shall be exercised in the following manner:

(a) PETITION: A petition signed and verified in the manner and form required for recall petition in Article IVa by qualified electors equal to twenty percent of the total qualified electors of said city, as shown by its latest poll tax list, accompanied by the proposed

legislation or measure in the form of a proposed ordinance or resolution, which must be written or printed, and requesting that such ordinance or resolution be submitted to a vote of the qualified electors, if not passed by the Board of Commissioners, shall be filed with the person performing the duties of City Clerk or Secretary.

(b) CERTIFICATE: Within five days after the filing of such petition the person performing the duties of City Clerk or Secretary shall certify the number of qualified voters residing in said City of Burkburnett, as shown by its latest poll tax list, and the number of signers of such petition, and shall present said certificate, petition and proposed ordinance or resolution to the Board of Commissioners.

(c) ACTION UPON PETITION BY BOARD OF COMMISSIONERS: Upon presentation to it of the certificate, petition and draft of proposed ordinance or resolution, as in this Charter provided, it shall become the duty of the Board of Commissioners, within ten days after the receipt thereof, except as otherwise provided, in this Charter, to pass and adopt such ordinance or resolution without alteration or to submit same to a popular vote at a special election to be held within thirty days from the date of such presentation; provided, however, that if any other municipal election is to be held within sixty days after the filing of the petition, said proposed ordinance or resolution shall be submitted without alteration to the qualified voters of said city at such election.
(Adopted May 8, 1923)

Section 3. REFERENDUM.

If, prior to the date when an ordinance or resolution shall take effect, or within thirty days after the publication of same, a petition signed and verified as required for recall petition in Article IVa and by section 2 (a) hereof, by the qualified voters of said city equal in number to twenty percent of the total qualified voters of said city, as shown by its latest poll tax list, shall be filed with the person performing the duties of City Clerk or Secretary, protesting against the enforcement or enactment of such ordinance or resolution, it shall be suspended from taking effect and no action theretofore taken under such ordinance or resolution shall be legal and valid. Immediately upon the filing of such petition, the person performing the duties of City Clerk or Secretary shall do all things required by section 2 (a) of this Article. Thereupon the Board of Commissioners shall immediately re-consider such ordinance or resolution and, if it does not entirely repeal the same, shall submit it to popular vote at the next municipal election, or said Board may, in its discretion call a special election for that purpose; and such ordinance or resolution shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.
(Adopted May 8, 1923)

Section 4. VOLUNTARY SUBMISSION OF LEGISLATION BY THE BOARD.

The Board of Commissioners, of its own motion, and by a majority vote of its members, may submit to popular vote for adoption or rejection or repeal at any election any proposed ordinance or resolution or measure, in the same manner and with the same force and effect as provided in this Article for submission on petition.
(Adopted May 8, 1923)

Section 5. FORM OF BALLOTS.

The ballots used when voting upon such proposed and referred ordinances, resolutions or measures, shall set forth their nature sufficiently to identify them, and shall also set forth upon separate lines the words:

"For the Ordinance." and

"Against the Ordinance." or

"For the Resolution." and

"Against the Resolution."

(Adopted May 8, 1923)

Section 6. PUBLICATION OF PROPOSED AND REFERRED ORDINANCES.

The person performing the duties of City Clerk or Secretary shall publish, at least once in the official organ of the city, every proposed or referred ordinance or resolution, within fifteen days before the date of the election; and shall have such other notices, and do such other things relative to such election as are required in general municipal elections, or by the ordinance or resolution calling said election.
(Adopted May 8, 1923)

Section 7. ADOPTION OF ORDINANCES.

If a majority of the qualified electors voting on any proposed ordinance or resolution or measure shall vote in favor thereof it shall thereupon or at any time fixed therein become effective as a law or as a mandatory order to the Board of Commissioners.
(Adopted May 8, 1923)

Section 8. INCONSISTENT ORDINANCES.

If the provisions of two or more proposed ordinances or resolutions approved at the same election are inconsistent, the ordinance or resolution receiving the highest number of votes shall prevail.
(Adopted May 8, 1923)

Section 9. ORDINANCES PASSED BY POPULAR VOTE, REPEAL OR AMENDMENT.

No ordinance or resolution which may have been passed by the Board of Commissioners upon a petition, or adopted by popular vote, under the provisions of this Article, shall be repealed or amended, except by the Board of Commissioners in response to a referendum petition or by popular or by popular vote thereon.
(Adopted May 8, 1923)

Section 10. NUMBER OF ELECTIONS.

There shall not be held under this Article more than one special election in any period of six months.
(Adopted May 8, 1923)

Section 11. FURTHER REGULATIONS BY BOARD OF COMMISSIONERS.

The Board of Commissioners may pass ordinances or resolutions providing other and further regulations for carrying out the provisions of this Article not inconsistent herewith.
(Adopted May 8, 1923)

Section 12. FRANCHISE ORDINANCE.

Nothing contained in this Article shall be construed to be in conflict with any of the provisions of Article VIII of this Charter pertaining to the ordinances, granting of franchises or special privileges or the referendum thereon.
(Adopted May 8, 1923)

ARTICLE V

City Manager

Section 1. APPOINTMENT.

The Board of Commissioners shall appoint the City Manager at the organization meeting of said Board or as soon thereafter as practicable, who shall be the administrative head of the municipal government, under the direction and supervision of said Board.
(Adopted May 8, 1923)

Section 2. RESIDENCE OF CITY MANAGER.

The City Manager may or may not be a resident of the City of Burkburnett when appointed. The individual hired as City Manager will have ninety (90) days from their appointment as City Manager to move within the City limits of the City of Burkburnett and must continue to reside within the City limits of the City of Burkburnett during their term of employment as City Manager.
(Adopted May 8, 1923; Am. Ord. 871, passed 2-16-15, as adopted by election held on 5-9-15)

Section 3. TERM OF OFFICE.

The City Manager shall be appointed for an indefinite period and shall be subject to discharge at the will of the Board of Commissioners.
(Adopted May 8, 1923)

Section 4. ABSENCE OR DISABILITY OF CITY MANAGER.

During the absence or disability of the City Manager the Board of Commissioners shall designate some properly qualified person to perform the duties of said office.
(Adopted May 8, 1923)

Section 5. POWERS AND DUTIES.

The powers and duties of the City Manager shall be:

(a) To devote all his working time and attention to the affairs of the city and be responsible to the Board of Commissioners for the efficient administration of its affairs;

(b) To see that all laws and ordinances are enforced;

(c) With the advice and consent of the Board of Commissioners to appoint and remove all heads of departments (except where this Charter places in the Board of Commissioners such power of appointment), and all subordinate employees of the city;

(d) To exercise supervision and control over all departments created by this Charter or that may hereafter be created by the Board of Commissioners, except as otherwise provided herein;

(e) To attend all meetings of the Board of Commissioners, with the right to take part in the discussions, but having no vote and he shall be notified of all special meetings of said Board in the time and manner this Charter requires such notice to be given to the members of said Board;

(f) To see that all terms and conditions imposed in favor of the city or its inhabitants, in any public utility franchise are faithfully kept and performed, and upon knowledge of any violation thereof to call the same to the attention of the Board of Commissioners;

(g) To act as Budget Commissioner and as such to prepare and submit to the Board of Commissioners prior to the beginning of each fiscal year, a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the estimated amounts required by months for the efficient operation of each department of the city government and the reasons for such estimated expenditures;

(h) To make a full written report to the Board of Commissioners as soon after the close of each month's accounts as possible, showing the operation and expenditures of each department of the city government for the preceding month, and a comparison of such monthly expenditures, by departments, with the monthly allowances made for such departments in the annual budget, and to keep said Board fully advised at all times as to the financial condition and needs of the city;

(i) To act as purchasing agent for the city and to purchase all merchandise, materials and supplies needed by the city; to establish a suitable storehouse where such supplies shall be kept, and from which same shall be issued as needed, and to adopt such rules and regulations governing requisitions and the transaction of business between himself, as such purchasing agent, and the heads of the departments, officers and employees of the city, as the Board of Commissioners may approve;

(j) To recommend to the Board of Commissioners the salaries to be paid each appointive officer and subordinate employee of the city, and it shall be the duty of said Board to pass ordinances or resolutions from time to time, fixing rates of compensation;

(k) To recommend to the Board of Commissioners in writing, from time to time, for adoption, such measures as he may deem necessary or expedient, and;

(l) To do and perform such other duties as may be prescribed by this Charter or be required of him by the ordinances and resolutions of the Board of Commissioners.
(Adopted May 8, 1923)

Section 6. COMPENSATION OF CITY MANAGER.

The City Manager shall receive such compensation as the Board of Commissioners shall fix from time to time by ordinance or resolution.
(Adopted May 8, 1923; as amended by election held on April 4, 1967)

ARTICLE VI

Finance

Section 1. FISCAL YEAR.

The fiscal year of the City shall be established, from time to time, by the Board of Commissioners by resolution.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 2. ANNUAL BUDGET.

(A) City Manager's Duties. Each year the City Manager shall: (i) gather the appropriate information required to prepare a proposed budget; (ii) prepare a proposed budget each year in consultation with the Board of Commissioners; and (iii) file the proposed budget with the municipal clerk.

(B) Municipal Clerk's Duties. The Municipal Clerk shall: (i) accept the proposed budget for filing, (ii) maintain the proposed budget so that it is available for public inspection as required by state law, and (iii) publish notice of the hearing on the proposed budget set by the Board of Commissioners.

(C) Contents of Annual Budget. The proposed annual budget shall contain all information now or hereafter required for annual municipal budgets by state law and such other information as may be required by the Board of Commissioners.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 3. ANNUAL AUDIT.

(A) Requirement for Annual Audit. Annually the Board of Commissioners shall select and contract with a certified public accounting firm which has experience in municipal finance for the purpose of rendering an independent audit of all accounts and other financial records of the City. After completion of any audit by the City, the auditor shall prepare a written report, and shall submit the report to the Board of Commissioners at a meeting of the Board of Commissioners.

(B) Timing for Completion of the Audit. The audit report shall be submitted to the Board of Commissioners within 120 days after the end of the preceding fiscal year for which the audit is being conducted unless an extension has been granted by resolution of the Board of Commissioners.

(C) Availability of the Audit. The audit report shall be made available to the public at cost, upon request.

(D) Selection and Qualifications of Auditor. The personnel of the firm conducting the audit shall not hold any public office in the City nor have any personal interest, direct or indirect, in the fiscal affairs of the City or any of its offices. Unless waived by the Board of Commissioners, the Board of Commissioners shall annually solicit bids for the audit from qualified public accounting firms. Bid solicitation and advertisement shall be according to such rules as may be prescribed by the Board of Commissioners. The Board of Commissioners, when selecting a public accounting firm to conduct the audit, shall do so on the basis of the firm's experience, expertise, efficiency and ability to timely complete the audit and the cost to be charged for the audit. The Board of Commissioners shall not be required to accept the lowest bid for the audit.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 4. OTHER REPORTS.

The Board of Commissioners may, from time to time, direct the City Manager to prepare periodic financial reports pertaining to any aspect

of the City's fiscal operations including, without limitation, monthly receipt and disbursement reports, capital project budgets or reports on outstanding indebtedness.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 5. INDEBTEDNESS.

Subject to any limitations or requirements of state law the City shall have the authority to issue general obligation bonds, revenue bonds, certificates of obligation or any other public security or debt instrument authorized by applicable law for any purpose permitted by state law or the carry out any of the rights or powers vested in the City by this charter.
(Am. Ord. 633, passed 2-5-02)

Section 6. DEPOSITORY.

The City shall select a depository or depositories for City funds in accordance with the laws of the State of Texas.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

ARTICLE VII

Municipal Court

Section 1. ESTABLISHMENT OF THE MUNICIPAL COURT.

A municipal court, known as the "Municipal Court of Burkburnett, Texas" is hereby established. The Municipal Court shall have the jurisdiction, powers, and duties given and prescribed by the laws of the State of Texas.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 2. OPTION TO CREATE A MUNICIPAL COURT OF RECORD.

The Board of Commissioners may, by ordinance, create a municipal court of record in accordance with state law in lieu of the municipal court created in Section 1 above. In the event a municipal court of record is created by the Board of Commissioners the name of the municipal court may be changed by the Board of Commissioners to comply with state law.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 3. JUDGE OF THE MUNICIPAL COURT.

The Board of Commissioners shall appoint a Judge who shall be known as the "Judge of the Municipal Court." The Board of Commissioners may appoint one or more alternate judges to serve in the absence of the Municipal Judge. The Judge of the Municipal Court and any alternate

judges shall satisfy all requirements imposed by state law for municipal court judges. Any judge so appointed may be removed by the Board of Commissioners in their discretion.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 4. CLERK OF THE MUNICIPAL COURT.

The City Manager shall appoint a "Clerk of the Municipal Court." The clerk of the Municipal Court shall keep the records and the proceedings of the Court, issue all processes, and generally perform all the duties prescribed by law for clerks of such courts, insofar as those duties are applicable.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

ARTICLE VIII

Franchises and Special Privileges

Section 1. FRANCHISES.

The right of control, easement, user and the ownership of and title to the streets, highways, public thoroughfares and property of the City of Burkburnett, its avenues, parks, bridges, and all other public places and property are hereby declared to be inalienable, except by ordinance duly passed by a majority of all of the members of the Board of Commissioners; and no grant of any franchise, or lease or right to use the same, either on, along, through, across, under or over the same by any private corporation, association or individual, shall be granted by the Board of Commissioners, unless submitted to the vote of the legally qualified voters of the city, for a longer period than thirty years; provided, however, that whenever application is made for any grant of franchise, lease, right or privilege in or to the streets and public thoroughfares of the City of Burkburnett by any person or corporation, if they so request, the Board of Commissioners shall submit the same at an election called for said purpose, the expense of which shall be borne by the applicant for said franchise, and at said election, if the majority of the votes cast by legally qualified voters shall be in favor of making said grant, as applied for, said grant may be made for such a term of years as is specified in the ordinance submitting the same at said election; provided, however, that no grant shall be made or authorized for a longer period than fifty years.
(Adopted May 8, 1923)

Section 2. FRANCHISE ORDINANCES MAY BE REFERRED ON MOTION OF BOARD.

The Board of Commissioners may also, upon its own motion submit all applications or ordinances requesting the granting of franchises or special privileges in and to the streets, public thoroughfares and

highways of the City of Burkburnett, to an election, at which the people shall vote upon the proposition there submitted; the expense of which election shall be paid by the applicant or applicants therefor.
(Adopted May 8, 1923)

Section 3. FRANCHISE ORDINANCES MUST BE READ AT THREE REGULAR MEETINGS.

No such franchise shall ever be granted until the ordinance granting the same has been read in full at three regular meetings of the Board of Commissioners, nor shall any such franchise, grant, right or easement ever be made to any private individual, corporation, or association unless it provides for adequate compensation or consideration therefor to be paid to the City of Burkburnett, and in addition to any other form of compensation, grantee shall pay annually such fixed charge as may be prescribed in the franchise.
(Adopted May 8, 1923)

Section 4. LIMITATIONS UPON GRANT.

Such grant of franchise under and any contract in pursuance thereof shall provide that upon the termination of the grant, the grant, as well as property, if any, of the grantee, in the streets, avenues and public places, shall thereupon without other or further compensation to the grantee, or upon the payment of a fair valuation therefor, (the mode of ascertaining which shall be determined in the grant), be and become the property of the City of Burkburnett, and the grantee shall never be entitled to any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated, nor in arriving at the valuation shall any intangible value be taken into consideration, bur merely a fair value for the tangible property in use by the utility at that time in its business of supplying the public with such service as it may then be furnishing.
(Adopted May 8, 1923)

Section 5. FRANCHISE, FORFEITURE OF GRANT.

Every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and to maintain the property in good order throughout the life of the grant.
(Adopted May 8, 1923)

Section 6. CITY'S RIGHT TO INSPECT BOOKS OF GRANTEE.

The Board of Commissioners may also inspect and examine, or cause to be inspected and examined at all reasonable hours, any books of accounts of such grantee, which books or accounts shall be kept and such reports made in accordance with the forms and methods prescribed by the Board of Commissioners, which, as far as practicable, shall be uniform for all such grantees.
(Adopted May 8, 1923)

Section 7. PUBLICATION OF FRANCHISE ORDINANCE.

Whenever any application is made to the Board of Commissioners of the City of Burkburnett for any such grant or franchise, lease or right to use the streets, public highways, thoroughfares or public property of the City of Burkburnett, as is provided for in the preceding section of this Charter, or whenever an ordinance is introduced before the Board of Commissioners proposing to make grant of any franchise, lease or right to use the public highways, streets, thoroughfares and public property of the city of Burkburnett, publication of said ordinance of such proposed grant or right to use the, streets, public thoroughfares and highways of said city, shall be made by publishing the ordinance as finally proposed to be passed, which shall not thereafter be changed unless again published, setting forth in detail all the rights, powers and privileges granted or proposed to be granted, in some newspaper published in the City of Burkburnett once a week, for three consecutive weeks, which publication shall be made at the expense of the applicant or person or persons desiring said grant, and no such grant shall be made, or ordinance passed, until after publication in the manner aforesaid, nor shall any such ordinance confirming or making any such grant, lease or right to use the streets, public highways and thoroughfares of the City of Burkburnett take effect or become a law or contract or vest any rights in the applicants therefor, until after the expiration of thirty days after said ordinance has been duly passed by the Board of Commissioners.
(Adopted May 8, 1923)

Section 8. REFERENDUM.

Pending the passage of any such ordinance or during the time intervening between its final passage and the expiration of the thirty days before which time it shall not take effect, it is hereby made the duty of the Board of Commissioners to order an election, if requested by written petition signed by 10% of the registered voters of Burkburnett, at which election the registered voters of Burkburnett shall vote for or against the proposed grant as set forth in detail by the ordinance conferring the rights and privileges upon the applicants therefor, which said ordinance shall be published at length and in full in the call for said election made by the Board of Commissioners, and if at said election the majority of the votes cast shall be for said ordinance and the making of said proposed grant, the same shall thereupon become effective, but if a majority of the votes cast at said election so held shall be against the passage of said ordinance and the making of said grant, said ordinance shall not pass nor shall it confer any rights, powers or, privileges of any kind whatever upon the applicants therefor, and it shall be the duty of said Board, after canvassing the vote of said election to pass an ordinance repealing the ordinance which has been by it passed, if the same has been passed.
(Adopted May 8, 1923; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

Section 9. ORDINANCE AMENDING OR RENEWING EXISTING GRANTS.

No grant or franchise, or lease or right of user, in, upon, along, through or over the public streets, highways or public thoroughfares of the City of Burkburnett shall be made or given nor shall any rights of any kind whatever be conferred upon any person, private corporation, individual or association of any kind whatever, except the same be made by ordinance duly passed by the commissioners nor shall any amendment, renewal, extension, or enlargement of any rights, or powers previously granted to any corporation, person or association of persons, in, upon, along, through, under or over the streets of the City of Burkburnett be made, except in the manner and subject to all the conditions provided in the preceding sections of this Article for the making of original grants and franchises; provided, however, that the provisions of this section shall not apply to the granting of said contracts or such privileges to railway companies for the purpose of reaching and offering railway connections and switch privileges to the owners or users of any industrial plants; it being the intention to permit the Board of Commissioners to grant such rights or privileges to railway companies in the judgment of said Board when expedient, necessary, or advisable.
(Adopted May 8, 1923)

Section 10. OCCUPYING STREETS WITHOUT FRANCHISE.

It shall be unlawful for any person or corporation or association of persons to use or occupy any public ground whatever in the city or any space above, or below any public ground for the purpose of conducting any public utility wherein service is rendered to the public for hire or charge, unless permission is first had from the Board of Commissioners in the manner provided in this Charter. All public utilities whose franchise, or grant, expires by limitation expressed in the grant, shall, within six months from the date of the expiration of the grant or franchise remove all properties belonging to them from the public grounds and restore the grounds and surface of the street to its original condition, unless before the expiration of the grant or within ninety days thereafter a new franchise or extension of the old franchise be granted under the same rules governing the granting of new franchises, as in this Charter provided.
(Adopted May 8, 1923)

Section 11. FORFEITURE OF FRANCHISE.

The Board of Commissioners may enforce all regulations of public utilities, whether such regulations are prescribed in the franchise under which they may be operating or by ordinance passed thereafter or by this Charter, and may for adequate cause enforce the forfeiture of any franchise in any court of competent jurisdiction. Adequate cause

may be deemed to be a persistent refusal after due notice to comply with reasonable regulations or demands of the Board of Commissioners, and refusal to obey and comply with the law and the ordinances of the city or any contract.
(Adopted May 8, 1923)

Section 12. GRANT NOT TO BE EXCLUSIVE.

No grant of franchise to construct, maintain or operate a public utility and no renewal or extension of such grant shall be exclusive.
(Adopted May 8, 1923)

Section 13. PURCHASE OR LEASE BY CITY.

No grant of franchise or no renewal, extension or amendment of such grant shall be valid unless it specifically reserves to the city the right, at intervals to be set forth in the franchise ordinance, to terminate the same by purchase or lease and operation of the property of the utility used in or conveniently used for the operation of the utility in the interest of the city or elsewhere; nor shall any such grant, renewal or extension be valid which does not either definitely fix and determine the price which shall be paid by the city for property of the public utility and the terms of payment in the event of purchase or lease by the city, or provide the precise means and method whereby such purchase or rental price and terms shall be fixed and determined.
(Adopted May 8, 1923)

Section 14. PRICE TO EXCLUDE FRANCHISE VALUE.

No ordinance granting a franchise or granting a renewal or extension thereof shall be valid unless it shall expressly provide therein that the price to be paid by the city for the property that may be acquired by it from such utility by purchase, condemnation or otherwise, shall exclude all value of such grant, renewal or extension, and unless it expressly provide that the rental price to be paid by the city shall exclude all value of such grant, extension or renewal.
(Adopted May 8, 1923)

Section 15. VALUATION OF PLANT FOR RATE MAKING PURPOSES.

No grant of franchise and no renewal, extension or amendment of such grant shall be valid unless special contract provision is made therein between the city and the grantee or grantees, and which shall inure to the benefit of the patrons of such grantee or grantees, to the effect that for all rate making purposes, whether before the Board of Commissioners of said city or in the courts of the county, the valuation of such utility shall be the physical value of the plant at the time of such inquiry and in no case in excess of its original construction cost, plus the cost of its additions and betterments, and less reasonable depreciation.
(Adopted May 8, 1923)

Section 16. CONDEMNATION PROCEEDINGS.

Nothing in such ordinances or in this Charter shall prevent the city from acquiring property of any utility by condemnation proceedings or any other method provided by law; which such methods of acquisition shall be in addition to the power of purchase or lease to be reserved in the grant, renewal or extension.
(Adopted May 8, 1923)

Section 17. ASSIGNMENT OF GRANT.

No grant, franchise or other special privilege shall be leased, assigned or otherwise amended except with the consent of the Board of Commissioners expressed by an affirmative vote of at least four of its members.
(Adopted May 8, 1923)

ARTICLE IX

Taxation

Section 1. CITY TAX ASSESSOR-COLLECTOR.

The Board of Commissioners shall have the power to establish the office of City Tax Assessor-Collector. This official shall be appointed by the City Manager, and shall be responsible for the assessment and collection of taxes for any other body possessing the power of taxation and having a contract with the City with the City for such services.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 2. POWER OF TAXATION.

The Board of Commissioners shall have the power to levy and collect taxes for any municipal purpose not prohibited by state law or restricted by this Charter.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 3. APPRAISAL AND ASSESSMENT OF REAL PROPERTY.

All real property situated within the corporate limits of the City on the first day of January of each year, not expressly exempted by law, shall be subject to yearly taxation by the City. As prescribed by state law, the assessed value of such property shall be One-Hundred (100) percent of its appraised value on January 1 as determined by the Appraisal District authorized by state law to appraise property subject to taxation by the City.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 4. TAX RATE.

The tax rate shall be calculated, publicized and adopted in accordance with the State Property Tax Code.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 5. HOMESTEAD EXEMPTIONS.

(A) The Board of Commissioners may pass, by ordinance, general homestead exemptions optional homestead exemptions as provided by state law.

(B) The Appraisal District having jurisdiction to appraise property subject to taxation by the City shall prescribe the method and manner in which such exemptions may be secured by qualified property owner(s) according to state law.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 6. TAX PAYMENTS.

(A) Method of Payment. All taxes due the City shall be payable as provided by the Property Tax Code. All taxes shall become due and payable upon receipt of the tax bill.

(B) Delinquent Taxes. Taxes shall become delinquent if not paid before February 1 of the year following the year in which imposed. The interest and penalty on delinquent taxes shall be assessed as provided by state law.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02)

Section 7. TAX LIENS AND LIABILITY.

(A) Real and Personal Property. On January 1 of each year, a tax lien in favor of the City attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on that property, whether the taxes are imposed in the year the lien attaches. The lien shall have priority over all other claims except for claims for any survivor's allowance, funeral expenses, or expenses of the last illness of a decedent made against the estate of a decedent as provided by law.

(B) Business and Non-Business Personal Property. Upon securing a tax warrant as provided by Chapter 33 of the Texas Tax Code or other applicable state law, the city tax collector, accompanied by a peace officer, may seize, and take possession pending the sale of, as much of any business personal property, or certain non-business taxable personal property as may be reasonably necessary for the payment of all taxes, penalties, and interest owed, as well as all costs of seizure and sale.
(Adopted May 8, 1923; Am. Ord. 633, passed 2-5-02; Am. Ord. 933, passed 5-14-18; as amended by election held on May 5, 2018)

ARTICLE IXa

Reserved

Former Article IXa entitled Board of Appraisement and Equalization was repealed by municipal election on February 2, 2002.

ARTICLE IXb

Reserved

Former Article IXb entitled Fiscal Year Budget System was repealed by municipal election on February 2, 2002.

ARTICLE X

Reserved

Former Article X entitled Bonds was repealed by municipal election on February 2, 2002.

ARTICLE XI

Reserved

Former Article XI entitled City Depository was repealed by municipal election on February 2, 2002.

ARTICLE XII

Reserved

Former Article XII entitled Elections was repealed by municipal election on February 2, 2002.

ARTICLE XIII

General Provisions

Section 1. AMENDMENTS TO CHARTER.

This Charter after its adoption by the qualified voters of the City of Burkburnett may be amended in accordance with the provisions of an Act of the 33rd Legislature of the State of Texas, entitled "An Act Authorizing Cities Having More Than Five Thousand Inhabitants by Majority Vote of the Qualified Voters of Said City at an Election Held for that Purpose to Adopt and Amend Their Own Charter, Etc." approved April 7, 1913, and any Acts amendatory thereof.
(Adopted May 8, 1923)

Section 2. ORDINANCES CONTINUED IN FORCE.

All ordinances and resolutions in force at the time of the taking effect of this Charter not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.
(Adopted May 8, 1923)

Section 3. CONTINUANCE OF PRESENT OFFICERS.

The offices of Mayor and Alderman of the City of Burkburnett, as said offices are at present created and constituted by the City of Burkburnett, are hereby abolished and vacated; and such offices and the salaries, fees and compensation thereof, shall wholly cease and expire at the time when the Board of Commissioners as constituted herein shall be elected and qualified. All other persons holding office at the time this Charter goes into effect shall continue in office and in the performance of their duties until provision shall have otherwise been made in accordance with the provisions of this Charter for the performance of the duties of or the discontinuance of any such office. When such provision shall have been made, the term of any such officer shall expire and the office be abolished. The powers which are conferred and the duties which are imposed upon any officer, board or department of the city under the laws of this State shall, if such officer, board or department is abolished by this Charter, be thereafter exercised and discharged by the officer, board or department upon whom are imposed corresponding functions, duties and powers under the provisions of this Charter.
(Adopted May 8, 1923)

Section 4. CONTINUANCE OF CONTRACTS AND VESTED RIGHTS.

All vested rights of the city shall continue to be vested and shall not in any manner be affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the city or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under the laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.
(Adopted May 8, 1923)

Section 5. CONSTRUCTION.

The provisions of this Charter shall be liberally construed for the purpose of obtaining the objects thereof.
(Adopted May 8, 1923)

Section 6. MEANING OF CERTAIN WORDS.

Unless some other meaning is manifest, the word "City" shall be construed to mean the "City of Burkburnett, Texas," the word "and" may be read "or" and the word "or" may be read "and," if the sense requires it; and words in the present tense include future tense, except when a more restricted meaning is manifest.
(Adopted May 8, 1923)

ARTICLE XIV

Submission of Charter to Qualified Voters

Section 1. QUALIFIED VOTERS, WHO ARE.

Only those who are qualified voters residing within the corporate limits of said City of Burkburnett and have paid their city poll tax for year 1922, and those who reside in the territory to be added to said City of Burkburnett by this Charter and who are qualified to vote for members of the State Legislature, shall be permitted to vote in the election for the adoption of this Charter.
(Adopted May 8, 1923)

Section 2. VOTE ON PROPOSED CHARTER, MANNER, ETC.

This Charter shall be submitted to the qualified voters, for adoption or rejection, on Tuesday, the 8th day of May, A. D. 1923, at which election if a majority of the qualified voters voting in such election shall vote in favor of the adoption of this Charter, it shall thereupon become the Charter of the City of Burkburnett, Texas, until amended or repealed.

It being impracticable to segregate each subject so that the voter may vote "yes" or "no" on the same, it is hereby prescribed that the form of ballot for use in such election shall be as follows, to-wit:

OFFICIAL BALLOT

City Election

QUESTION: SHALL THE CHARTER FRAMED BY THE CHARTER COMMISSION BE ADOPTED?

-1-

FOR THE ADOPTION OF THE CHARTER

-2-

AGAINST THE ADOPTION OF THE CHARTER

The present Mayor and City Council of the City of Burkburnett shall call said election and the same shall be conducted and returns made, and results declared, as provided by the laws of the State of Texas governing municipal elections, and in case a majority of the votes cast at said election shall be in favor of the adoption of this Charter, then an official order shall be entered upon the records of said city, by the Mayor and City Council of the City of Burkburnett, declaring the same adopted, and the City Secretary shall record, at length, upon the records of the city, in a separate book to be kept in his office for such purpose, this Charter is adopted, and said Secretary shall furnish to the Mayor a copy of this Charter, so adopted and authenticated by his signature and the seal of the city, which copy of the Charter shall be forwarded by the Mayor of the City of Burkburnett to the Secretary of State, and shall show the approval of this Charter by a majority vote of the qualified voters of the City of Burkburnett.

Respectfully submitted,

DR. WALLACE MARTIN, Chairman

GLENN R. KINCAID

AUGUST LOHOEFENER

JNO. E. HAYNES

A. R. THOMAS

F. COVINGTON

R. E. FISHER

E. J. WOODWARD

J. D. MAJORS

J. S. MILLS

W. R. HILL

W. D. UTTS

C. O. WALLING

L. J. DICKSON, Secretary

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

10.01 Title of code
10.02 Interpretation
10.03 Application to future ordinances
10.04 Captions
10.05 Definitions
10.06 Rules of interpretation
10.07 Severability
10.08 Reference to other sections
10.09 Reference to offices
10.10 Errors and omissions
10.11 Official time
10.12 Reasonable time
10.13 Ordinances repealed
10.14 Ordinances unaffected
10.15 Effective date of ordinances
10.16 Repeal or modification of ordinance
10.17 Ordinances which amend or supplement code
10.18 Section histories; statutory references

10.98 Fine schedule
10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the municipality of Burkburnett, shall be designated as the Code of Burkburnett, and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and

phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CITY," "MUNICIPAL CORPORATION," "MUNICIPALITY," or "TOWN." The City of Burkburnett, Texas.

"CODE," "THIS CODE" or "THIS CODE OF ORDINANCES." This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

"COUNTY." Wichita County, Texas.

"MAY." The act referred to is permissive.

"MONTH." A calendar month.

"OATH." An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "SWEAR" and "SWORN" shall be equivalent to the words "AFFIRM" and "AFFIRMED".

"OFFICER", "OFFICE", "EMPLOYEE", "COMMISSION", or "DEPARTMENT". An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

"PERSON." Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms "PERSON" or "WHOEVER" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

"PRECEDING" or "FOLLOWING." Next before or next after, respectively.

"SHALL." The act referred to is mandatory.

"SIGNATURE" or "SUBSCRIPTION." Includes a mark when the person cannot write.

"STATE." The State of Texas.

"SUBCHAPTER." A division of a chapter, designated in this code by an underlined heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

"WRITTEN." Any representation of words, letters, or figures, whether by printing or otherwise.

"YEAR." A calendar year, unless otherwise expressed; equivalent to the words "YEAR OF OUR LORD."

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) "AND" or "OR." Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling

of any words; the omission of any word or words necessary to expressthe intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal law, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in anywise be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (Art. 4477-6a, V.T.C.S.) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 31.10 CHARITABLE SOLICITATIONS.

No more than one permit shall be granted to any applicant during each calendar year.
(Ord. 10, passed 1-1-80)

Statutory reference:
For authority to regulate, see Art. 1175, Secs. 19 and 20, V.T.C.S.

§ 10.98 FINE SCHEDULE.

(A) The new fine schedule for the City Municipal Court shall be as follows:

Code, Ordinance or Statute	Offense	Range of Punishment	Fine	Court Costs	Total
Transport. Code and Other Vehicular Traffic/ Equip. Violations	Alcohol - Consuming while driving	0 - 200 for Adults 0 - 100 for Juveniles	100	35	135
	Crossing center not passing		100	35	135
	Cross parking lot to avoid traffic device		100	35	135
	Defective exhaust		50	35	85
	Drivers license - out of state suspension		100	35	135
	Drivers license - expired		50	35	85
	Drivers license - false		100	35	135
	Drivers license - incorrect address		50	35	85
	Drivers license - mutilated		50	35	85
	Drivers license - none		100	35	135
	Drivers license - restriction		50	35	85
	Drove over fire hose		100	35	135
	Excessive acceleration		75	40	115
	F.T.M.F.R.		175	107	282
	Fail to comply after accident		75	35	110
	Fail to control speed		75	40	115

Code Ordinance or Statute	Offense	Range of Punishment	Fine	Court Costs	Total
Transport. Code and Other Vehicular Traffic/ Equip. Violations	Fail to dim headlights	0 - 200 for Adults 0 - 100 for Juveniles	50	35	85
	Fail to drive in single lane		50	35	85
	Following emergency vehicle		100	35	135
	Following too closely		75	35	110
	Illegal window tint		50	35	85
	Improper lights		50	35	85
	Insp. sticker - expired		50	35	85
	Insp. sticker - incorrect		75	35	110
	Insp. sticker - mutilated		75	35	110
	Insp. sticker - none		75	35	110
	Lights inoperative		50	35	85
	Lights - broken lens		50	35	85
	M/C - No D.L.		100	35	135
	M/C - No headgear - driver		75	35	110
	M/C - No headgear - passenger		50	35	85
	Negligent collision		100	32	132
	No lights when required		75	35	110
	No seat belt - driver		75	35	110
	No seat belt - passenger		50	35	85
	Negligent collision		100	32	132
	No lights when required		75	35	110
	No seat belt - driver		75	35	110

Code, Ordinance or Statute	Offense	Range of Punish-ment	Fine	Court Costs	Total
Transport. Code and Other Vehicular Traffic/ Equip. Violations	No seat belt - passenger	0 - 200 for Adults 0 - 100 for Juveniles	50	35	85
	Obstruct window screen		35	35	70
	Permit unlicensed driver to drive		100	35	135
	Racing		100	40	140
	Ran red light		100	35	135
	Ran stop sign		100	35	135
	Tags - expired		50	35	85
	Tags - improper		50	35	85
	Tags - no front tags		35	35	70
	Tags - none		50	35	85
	Tags - wrong tags on vehicle		50	35	85
	Uncovered load		100	35	135
	Unsafe speed		100	40	140
	Wrong way on 1 way		50	35	85
	Illegal parking		50	35	85
	Speeding [**$7.00 per each m.p.h. over posted limit]	0 - 200	**	40	
	Reckless driving - juvenile		100	35	135
	Reckless driving - adult		170	35	205
Penal Code	§ 22.01 Assault	0 - 500	200	32	232
	§ 28.03 Criminal mischief	0 - 500	200	32	232
	§ 42.01 Disorderly conduct	0 - 500	200	32	232
	§ Reckless damage	0 - 500	200	32	232
	§ Theft	0 - 500	200	32	232
	§ Poss. of drug paraphernalia		200	32	232
	§ Public intoxication		100	32	132

Code, Ordinance or Statute	Offense	Range of Punish-ment	Fine	Court Costs	Total
Code of Criminal Procedure	Failure to appear	0 - 500	200	27	227
	Violate promise to appear	0 - 500	200	27	227
City Ordinance Violations	Animal - mistreating	0 - 200	200	32	232
	Animal - no shots	0 - 200	75	32	107
	Animal - not cleaning pens	0 - 200	75	32	107
	Animal - unregistered	0 - 200	75	32	107
	Animals - public nuisance	0 - 200	75	32	107
	Curfew violation	0 - 200	100	32	132
	Dog at large	0 - 200	100	32	132
	Firing/throwing missiles	0 - 200	100	32	132
	Public nuisance - property	0 - 200	100	32	132
	Public nuisance - barking dog	0 - 200	100	32	132
	Scavenging	0 - 200	75	32	107
Parking Violations	Parking - block entry/ exit	0 - 200	35	8	43
	Parking - block lane/ road	0 - 200	35	8	43
	Parking - by fire zone	0 - 200	35	8	43
	Parking - by fire hydrant	0 - 200	35	8	43
	Parking - double	0 - 200	35	8	43
	Parking - no parking zone	0 - 200	20	8	28
	Parking - handicap	100 - 200	150	8	158
	2nd offense	200 - 300	250	8	258
	3rd offense	300 - 400	350	8	358
	4th offense	400 - 500	450	8	458

Code, Ordinance or Statute	Offense	Range of Punish-ment	Fine	Court Costs	Total
Educational Code Violations	§ 25.094 - Failure to attend school	0 - 500	100	32	132
	§ 37.102 - Rules (Enacted by School Board)	0 - 500	100	32	132
	§ 37.107 - Trespass on school ground	0 - 500	200	32	232
	§ 37.122 - Possession of intoxicants on school grounds	0 - 500	200	32	232
	§ 37.124 - Disruption of classes	0 - 500	200	32	232
	§ 37.126 - Disruption of transportation	0 - 500	200	32	232
Alcoholic Beverage Code Violations	§ 106.02 - Purchase of alcohol by minor	25 - 200	100	32	132
	Subsequent offense	250 - 1,000	500	32	532
	§ 106.025 - Attempt to purchase alcohol by a minor	25 - 200	50	32	82
	Subsequent offense	250 - 1,000	500	32	532
	§ 106.04 - Consumption of alcohol by a minor	25 - 200	100	32	132
	Subsequent offense	500 - 1,000	600	32	632
	§ 106.05 - Possession of alcohol by a minor	25 - 200	50	32	82
	Subsequent offense	250 - 1,000	500	32	532
	§ 106.06 - Purchase for or furnish to a minor	100 - 500	200	32	532
	Subsequent offense	500 - 1,000	600	32	632
	§ 106.07 - Misrepresentation of age by a minor	25 - 2,000	50	32	82
	Subsequent offense	100 - 500	250	32	282
	Alcohol - poss. after hours	0 - 200	100	32	132
	Alcohol - poss. on school grounds	0 - 500	200	32	232

(Ord. 550, passed 3-17-97)

(B) Each person convicted of a misdemeanor in the Burkburnett Municipal Court shall pay:

(1) A fee of three dollars which shall go into a fund to be used to purchase security devices for the municipal court; and

(2) A technology fee of not more than four dollars, set by the municipal court judge, to be paid into a technology fund for the municipal court, which fund shall be used to purchase technology equipment for the court.
(Ord. 572, passed 8-16-99)

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding $200. However, if the maximum penalty provided by this Code for any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this Code. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

Statutory reference:
Maximum fine for general violations, see Sec. 54.001, Local Government Code

TITLE III: ADMINISTRATION

Chapter

30. DEPARTMENTS, BOARDS, AND COMMISSIONS

31. FINANCE AND TAXATION

32. EMPLOYEE POLICIES

33. MUNICIPAL COURT OF RECORD

34. CITY POLICIES

35. RECORDS MANAGEMENT

36. CITY COMMISSIONERS

CHAPTER 30: DEPARTMENTS, BOARDS, AND COMMISSIONS

Section

Planning Board

30.01 Establishment
30.02 Appointment; terms
30.03 Jurisdiction
30.04 Powers and duties
30.05 City officials to be available
30.06 City authorized by state law

Cemetery Board

30.10 Purpose
30.11 Term of office
30.12 Organization
30.13 Powers and duties
30.14 Limitations

PLANNING BOARD

§ 30.01 ESTABLISHMENT.

There is hereby created a Planning Board for the city composed of not less than five nor more than seven members, each of whom shall be a resident of the city, and who shall serve without pay.
(Ord. 246, passed 9-6-60)

§ 30.02 APPOINTMENT; TERMS.

(A) The Mayor shall appoint the members of the Planning Board and each person so appointed must be approved by three-fourths of a majority of the Board of Commissioners before becoming a member thereof. The Mayor, with three-fourths majority approval of the Board of Commissioners, shall appoint not less than five nor more than seven persons who shall serve on the Planning Board for a period of three years.

(B) At the option of the Mayor and with the three-fourths majority approval of the Commissioners, terms may be staggered for one, two, and three years so that not more than two persons shall be appointed any one year to replace individuals appointed and acting as members of such Board. Terms of office of members of such Board shall begin immediately, and shall end on January l next, in accordance with their appointment.

(C) All vacancies on the Board shall be filled by appointment of the Mayor, with the consent and approval of three-fourths of the Board

of Commissioners, and shall be for the remainder of the term of the vacating member.

(D) Any member of the Planning Board may be removed from his office, at any time, by a three-fourths majority vote of the Board of Commissioners, without any reason being given therefor.
(Ord. 246, passed 9-6-60)

§ 30.03 JURISDICTION.

State statutes authorizing and empowering cities to regulate the platting and recording of subdivisions or additions situated within the corporate limits, or within one mile of such city, the same being Article 974a, V.T.C.S., are hereby adopted for and on behalf of the city.
(Ord. 246, passed 9-6-60)

§ 30.04 POWERS AND DUTIES.

The powers and duties of the Planning Board are the following:

(A) To confer with and advise private property owners pertaining to location and erection of private structures with the view of having same conform to the over-all city plan, and to advise with the building inspectors and Department of Public Works in the performance of their duties.

(B) To aid and assist the Board of Commissioners in the preparation of budgets and determination of sources of funds, and in the procuring of financial and other assistance for the city from the state and federal governments and their agencies for each and all of the purposes herein enumerated.

(C) To act with and assist all other municipal and governmental agencies, and particularly the Board of Commissioners, in formulating and executing proper plans of municipal development and growth.

(D) To plan and recommend the location, plan, and extent of city alleyways, viaducts, bridges, subways, airports, automobile parking places, and other public grounds and public improvements; for the location of public buildings, schools, and other public properties; and of public utilities, including bus terminals, railroads, railroad depots, and terminals, whether publicly or privately owned; for water, lights, sanitation, sewerage, sewage disposal, drainage, flood control, transportation, communication, marketing, and shipping facilities, power, and other purposes; and for the removal, relocation, widening, extension, narrowing, vacation, abandonment, or change of use of any of the foregoing public places, facilities, or utilities.

(E) To select and recommend to the Board of Commissioners routes of streets, avenues, and boulevards, including the opening, widening, and abandoning of the same, or of any alley, or the changing thereof to conform with the city's system, present and future, with reference to traffic.

(F) To investigate, consider, and report to the Board of Commissioners upon the layout or platting of any new subdivision of the city or of property situated within five miles of the city limits, and to recommend the approval of all plans, plats, or replats of additions within the city limits or within five miles of the same, or of the rejection of either.

(G) To suggest, to the Board of Commissioners, plans for clearing the city of slums and blighted areas.

(H) To make any recommendation that seems expedient and in consonance with future zoning plans or laws, and with reference to the use of the present zoning of the city.

(I) The Planning Board shall, from time to time, recommend to the Board of Commissioners passage of such ordinances as may be necessary to carry out its program.
(Ord. 246, passed 9-6-60)

§ 30.05 CITY OFFICIALS TO BE AVAILABLE.

All department heads and officials of the city shall be available to the Planning Board for advice and consultation, and they shall come within the scope of the limits, and any other land outside the city, which, in the opinion of the Planning Board, bears a relation to the planning of the city, and to make changes in, additions to, and extensions of such plans or maps when it deems the same advisable.
(Ord. 246, passed 9-6-60)

§ 30.06 CITY AUTHORIZED BY STATE LAW.

The city, acting through its duly authorized officials, shall have all the rights, powers, privileges, and authority authorized and granted by and through the state statutes.
(Ord. 246, passed 9-6-60)

CEMETERY BOARD

§ 30.10 PURPOSE.

There is hereby created an advisory board to be known as the "Cemetery Board." This Board shall be composed of seven members. The

Director of Parks and Recreation shall be an ex-officio member. The members shall be appointed by the Mayor with the approval of a majority vote of the Board of Commissioners. All members shall serve without compensation.
(Ord. 817, passed 11-21-11)

§ 30.11 TERM OF OFFICE.

The normal term of office for each appointed member of the Cemetery Board shall be two years with a five-consecutive-term limit. Three members of the first Board shall be appointed for a term of one year and four members shall be appointed for a term of two years. Annually thereafter, the appropriate number of members shall be appointed by the Mayor with the approval of a majority of the Board of Commissioners for a term of two years. Should a vacancy occur for any reason, the Mayor with the approval of the majority of the Board of Commissioners shall within 60 days, appoint a replacement to serve the remainder of the term.
(Ord. 817, passed 11-21-11)

§ 30.12 ORGANIZATION.

The Cemetery Board, hereinafter referred to as "Board," shall elect a chairman, vice-chairman, and secretary annually and shall provide for regular and special meetings it deems necessary. The Board shall keep minutes of the meetings and shall furnish the Board of Commissioners a copy of such minutes.
(Ord. 817, passed 11-21-11)

§ 30.13 POWERS AND DUTIES.

The Board shall be responsible for the formulation of cemetery policy, rules, regulations, and programs. Recommendation on such policy, rules, regulations, and programs shall be made by the Board to the Board of Commissioners. Upon approval by the Board of Commissioners, such policy, rules, regulations, and programs shall become official and the City Manager, or designated representative, shall be responsible for its implementation.
(Ord. 817, passed 11-21-11)

§ 30.14 LIMITATIONS.

The Board shall be advisory in nature. It shall not be authorized to incur on behalf of the city any expenses incident to the operation of the cemeteries, nor shall it solicit funds on behalf of the city, unless expressly authorized to do so by the Board of Commissioners.
(Ord. 817, passed 11-21-11)

CHAPTER 31: FINANCE AND TAXATION

Section

Ad Valorem Tax

31.01 Ad valorem tax rate
31.02 Collecting delinquent taxes

Telecommunications Services Tax

31.10 Tax authorized; effective date
31.11 Other ordinances not repealed

Tax Incentive Programs

31.15 Enterprise and reinvestment zone
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Room Occupancy Tax

31.20 Definitions
31.21 Tax levied; amount; exemptions
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31.25 Additional authorization to bring suit
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AD VALOREM TAX

§ 31.01 AD VALOREM TAX RATE.

(A) An ad valorem tax in the amount per $100 of market value as is established annually by ordinance of the Board of Commissioners, as said market value is fixed by the County Appraisal District, shall be annually levied on all real property, personal property, and mixed property located and situated within the city limits, and any exceptions as established from time to time by the city or state. This tax shall be distributed to the general fund of the city.

(B) Any person failing to pay their taxes on or before January 31 of each year, shall be subject to the maximum penalties thereon allowed by law to be collected on delinquent taxes. All delinquent taxes shall bear interest at the highest per annum interest rate allowed by law to be collected on delinquent taxes and shall bear interest from the date of delinquency until paid.
(Ord. 434, passed - -86; Am. Ord. 443, passed 9-21-87; Am. Ord. 453, passed 9-19-88; Am. Ord. 465, passed 9-18-89; Am. Ord. 474, passed 9-17-90; Am. Ord. 484, passed 9-16-91; Am. Ord. 498, passed 9-21-92; Am. Ord. 518, passed 9-20-93; Am. Ord. 526, passed 9-19-94; Am. Ord. 536, passed 9-18-95; Am. Ord. 545, passed 9-16-96; Am. Ord. 553, passed 6-16-97; Am. Ord. 555, passed 9-15-97; Am. Ord. 566, passed 9-21-98; Am. Ord. 646, passed 9-16-02; Am. Ord. 663, passed 9-15-03; Am. Ord. 682, passed 9-20-04; Am. Ord. 756, passed 9-15-08; Am. Ord. 770, passed 9-21-09; Am. Ord. 790, passed 9-20-10; Am. Ord. 812, passed 9-19-11; Am. Ord. 826, passed 9-17-12; Am. Ord. 886, passed 9-18-15; Am. Ord. 905, passed 9-19-16; Am. Ord. 926, passed 9-18-17; Am. Ord. 941, passed 9-17-18)

§ 31.02 COLLECTING DELINQUENT TAXES.

(A) Taxes remaining delinquent on July 1, of the year in which they become delinquent shall incur an additional penalty of 15% of the amount of taxes, penalty, and interest due.

(B) A tax lien shall be attached to the property on which the tax is imposed to secure payment of the penalty.

(C) The Tax Collector shall deliver a notice of delinquency, and of the additional penalty, to the property owner at least 30 and not more than 60 days before July 1, of the year taxes become delinquent. (Ord. 408, passed 1-16-84)

TELECOMMUNICATIONS SERVICES TAX

§ 31.10 TAX AUTHORIZED; EFFECTIVE DATE.

(A) A tax is hereby authorized on all telecommunications services sold within the city. For purposes of this subchapter, 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 Article 1066 C, Section 4B (a), V.T.C.S. is hereby repealed by the city as authorized by Section 4B(b) thereof.

(C) The rate of tax imposed by this subchapter 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 of Texas.

(D) The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered or Certified Mail a copy of ordinance 438 along with a copy of the minutes of the City Council's vote and discussion on that ordinance.

(E) This section shall become effective as of October 1, 1987. (Ord. 438, passed 5-18-87)

§ 31.11 OTHER ORDINANCES NOT REPEALED.

This subchapter shall be and is hereby declared to be cumulative of all other ordinances of the city, and this subchapter shall not operate to repeal or affect any of such other ordinances. The tax provided for hereunder 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, charter provisions, statute, or, without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent hereof that all

such obligations, impositions, and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.
(Ord. 438, passed 5-18-87)

TAX INCENTIVE PROGRAMS

§ 31.15 ENTERPRISE AND REINVESTMENT ZONE.

(A) The City hereby nominates a certain area as an enterprise zone in accordance with the Texas Enterprise Zone Act, Art. 5190.7, V.T.C.A., to be designated as Burkburnett Enterprise Zone, this area generally includes:

> The territory beginning at the intersection of Interstate Highway 44 and the city limits, then following the eastern city limit boundaries to its intersection with Sycamore Drive, then along Sycamore Drive westward to its intersection with Sheppard Road and Interstate Highway 44, then south along Interstate Highway 44 to the southern city limit boundary, then along the southern city limit boundary to its intersection with FM 369, then north along FM 369 to Kramer Road, then east on Kramer Road to the eastern property line of J. Wayne Carter Property (5M10-002), then south along the eastern property line along the J. Wayne Carter Property to the southern city limit boundary, then east along the southern city limit boundary to Cropper Road, then north along Cropper Road to Burkburnett Industrial Foundation Property fine (5M08-002), then following the southern and western Burkburnett Industrial Foundation property lines to Preston Road, then west along Preston Road to its intersection with the south alley/drainage easement along Janlee Drive, then northeasterly and northerly along the south alley/drainage easement along Janlee Drive to the northern boundary of the Ameron Property (5M18-008), then west along the northern boundary line along the Ameron Property to its intersection with Ameron Road and the MKT Railroad, then south along the MKT Railroad to its intersection with Cropper Road, then south along the MKT Railroad to Daniels Road, then east on Daniels Road to Interstate Highway 44, then north on Interstate Highway 44 to Brenda Street, then west on Brenda Street to Berry Street, then north along Berry Street to Park Street, then west along Park Street to Avenue D, then north along Avenue D to College Street, then west on College Street to the MKT Railroad, then north-northwesterly along the MKT Railroad to Gresham Road, then west along Gresham Road to the western boundary of Superior Pallet Company property (5NO2-256-03), then north along the Superior Pallet Company western property line to the northern property line, then north along the northern property line of Superior Pallet Company to the MKT Railroad, then south along the MKT Railroad, to the northern city limit boundary, then easterly along the northern city limit boundary to the point of beginning.

(B) The City Council finds that the proposed enterprise zone meets the qualifications of an enterprise zone of the Texas Enterprise Zone Act.

(C) The City Council will provide certain tax incentives applicable to business enterprises in the zones which are not applicable throughout the city as follows:

(1) The city may at its election, refund to any qualified business located in the enterprise zone the amount of tax paid under the Municipal Sales and Use Tax Act (Ch. 321, Tax Code, V.T.C.A.) by the business and remitted to the Comptroller of Public Accounts up to the maximum extent authorized by § 321.508, Tax Code, V.T.C.A., and for a period determined by the city but which shall not exceed 5 years.

(2) The city may abate ad valorem taxes up to a maximum of 100% of the real property and eligible personal property improvements as allowed under Property Redevelopment and Tax Abatement Act as amended (Chapter 312, Tax Code, V.T.C.A.) for a period to not to exceed 10 years. All tax abatement incentives shall be in accordance with the city's policies on tax abatement and determined on a case-by-case basis.

(3) The city will provide technical assistance in the preparation and submission of any grant and loan applications on behalf of qualified business desiring financial assistance (i.e., Texas Capital Fund Loan Program, Texas Capital Fund Real Estate Development Program, Governor's Special Assistance Fund for Small and Minority Business, FMHA Business and Industrial Loan Program, SBA 7(a) and 504 Loan Program, National Rural Loan Program, and the like).

(4) The city will assist the qualified business in applying for job training funds for any new and permanent jobs through the Jobs Partnership Training Act and the Work Force Development Incentive Programs.

(D) The proposed area nominated in this section is designated as an enterprise and reinvestment zone, subject to the approval of the Texas Department of Commerce.

(E) The City Council directs and designates that the Mayor as the City's authorized representative to act in all matters pertaining to the nomination and designation of the area described herein as an enterprise and reinvestment zone.

(F) The City Council further directs and designates the City Manager, as liaison for communication with the Texas Department of Commerce to oversee zone activities and communications with qualified businesses.
(Ord. 499, passed 10-29-92)

§ 31.16 TAX INCREMENT FINANCING DISTRICT, REINVESTMENT ZONE.

(A) The city hereby creates a Tax Increment Financing District, Reinvestment Zone over the area depicted in Exhibit A attached to Ord. 708, passed February 20, 2006.

(B) The operation of the zone shall commence on February 20, 2006 and shall terminate on December 31, 2035. The zone may be renewed for an additional five years, or may terminate sooner by subsequent ordinance.

(C) The city hereby creates a Board of Directors for the zone, which shall consist of five members, at least four of which shall be appointed by the Board of Commissioners, one by the Wichita County Commission. Three Board members shall have initial appointments terminating on December 31, 2007. Two Board members shall have initial appointments terminating on December 31, 2006. All subsequent appointments shall be made for two year staggered terms. In the event that no successor has been appointed by December 31 of any year, such member shall continue to serve until his of her successor is appointed.

(D) The Board of Commissioners shall appoint one member of the Board to serve as chairman for a term to expire on December 31, 2006. The Board of Commissioners will appoint a chairman to serve for a one-year term beginning January 1 of each year thereafter. The Board of Commissioners may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The TIF Board may elect other officers, as it considers appropriate.

(E) There is hereby created a Tax Increment Fund for the zone into which all tax increments shall be deposited. The tax increments shall be equal to the amount of property taxes levied for a year on the captured appraised value, that is the amount by which the current appraised value of all taxable real property located in the zone exceeds its tax increment base. The base shall be as determined and certified in the Financial Plan as the 2005 values.

(F) The Plan for the Tax Increment Financing Reinvestment Zone (Exhibit B attached to Ord. 708, passed February 20, 2006) is hereby adopted.
(Ord. 708, passed 2-20-06; Am. Ord. 900, passed 7-18-16)

ROOM OCCUPANCY TAX

§ 31.20 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CITY CLERK." The City Clerk and collector for the city of Burkburnett.

"CONSIDERATION." The cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

"HOTEL." Any building or buildings in which the public may, for a consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but not including licensed hospitals, sanitariums or nursing homes.

"OCCUPANCY." The use or possession, or the right to the use or possession, of any room or rooms in a hotel if the room is one which is ordinarily used for sleeping and conventions and if the occupant is other than a permanent resident as hereinafter defined.

"OCCUPANT." Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.

"PERMANENT RESIDENT." Any occupant who has or shall have the right to occupancy of any room or rooms in a hotel for at least 30 consecutive days during the calendar year or preceding year.

"PERSON." Any individual, company, corporation or association owning, operating, managing or controlling any hotel.

"QUARTERLY PERIOD." The regular calendar quarters of the year, the first quarter being composed of the months October, November and December; the second quarter being the months of January, February and March; the third quarter being the months of April, May and June; and the fourth quarter being the months of July, August and September. (Ord. 634, passed 4-15-02)

§ 31.21 TAX LEVIED; AMOUNT; EXEMPTIONS.

(A) There is hereby levied a tax of 7% of the price paid for a room in a hotel on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2 or more each day, and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.

(B) Exemptions.

(1) No tax shall be imposed upon a permanent resident.

(2) No tax shall be imposed for federal or state employees traveling on official business.

(3) No tax shall be imposed for diplomatic personnel who present a tax exemptions card issued by the United States Department of State.

(4) No tax shall be imposed for federal or state military personnel traveling on official military business. This exemption does not cover military staff on leave or between stations.
(Ord. 634, passed 4-15-02)

§ 31.22 COLLECTION OF TAX.

(A) Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this subchapter for the city and its extraterritorial jurisdiction.

(B) The hotel operator shall be entitled to 1% of the hotel occupancy tax revenues collected as reimbursement for the operator's administrative costs for collecting the tax. However, as herein below provided, this reimbursement may be forfeited at the discretion of the city if the hotel operator fails to timely pay over the tax or timely file a report as required by the city or file a false report with the city.
(Ord. 634, passed 4-15-02)

§ 31.23 QUARTERLY REPORTS TO CITY CLERK.

On or before the 30th day of April, July, October and January every person required in § 31.22 to collect the tax imposed herein shall file a report with the City Clerk showing the price paid for all room occupancies, and any other information the city may reasonably require. The person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the city. The City Clerk is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this subchapter. The City Clerk shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the city by the hotel.
(Ord. 634, passed 4-15-02)

§ 31.24 RULES AND REGULATIONS OF CITY; ACCESS TO BOOKS AND RECORDS.

The city shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon reasonable notice have access to books and records necessary to enable a person to determine the correctness of any report filed as required by this subchapter, and the amount of taxes due under the provisions of this subchapter.
(Ord. 634, passed 4-15-02)

§ 31.25 ADDITIONAL AUTHORIZATION TO BRING SUIT.

The City Attorney is hereby authorized to bring suit against any person required to collect the tax imposed hereby and required to pay the collection over to the city and who has failed to file a report, or filed a false report, or failed to pay the tax when due. The suit may seek to collect the tax not paid or to enjoin the person from operating a hotel in the city or its extraterritorial jurisdiction until the tax is paid or the report is filed or both, as applicable as provided in the injunction.
(Ord. 634, passed 4-15-02)

§ 31.26 USE OF REVENUE.

The revenue derived from any hotel occupancy tax imposed and levied by this subchapter may be used only to promote tourism and the convention and hotel industry. Such revenue shall not be used for the general revenue purposes or general governmental operations of the municipality, which are not directly related to promoting the hotel and convention industry or tourism in the municipality.
(Ord. 634, passed 4-15-02)

§ 31.27 KEEPING OF RECORDS.

(A) A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the City Council or other person, shall make the records available for inspection and review and present an annual program of work.

(B) The entity must maintain the revenue provided by the municipality from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account.

(C) Hotel occupancy tax revenue may not be spent for travel for any person to attend an event or conduct an activity, the primary p u r p o s e

of which is not directly related to the promotion of the person's job in an efficient and professional manner.
(Ord. 634, passed 4-15-02)

§ 31.28 PUBLICATION.

Publication shall be made one time in the official publication of the city, which shall contain the caption stating in substance the purpose of the subchapter.
(Ord. 634, passed 4-15-02)

§ 31.29 PENALTY.

(A) If any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the city the tax imposed herein when the report or payment is due, he or she shall forfeit 5% of the amount due as penalty, and after the first 30 days, he or she shall forfeit an additional 5% of the tax. However, such penalty shall never be less than $1. Delinquent taxes shall draw interest at the rate of 10% per annum beginning 60 days from the due date.

(B) Any person violating any of the provisions of this subchapter, including hotel operators who fail to collect the tax, fail to file a return, file a false return, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not to exceed $200, and each 24 hours of such violation shall constitute a separate offense.

(C) The city is hereby authorized to take the following actions against any person required to collect the tax imposed hereby and pay the collection over to the city and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

(1) Require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;

(2) Bring suit against the hotel for noncompliance; and/or

(3) Bring suit against the hotel seeking any other remedies provided under Texas law.
(Ord. 634, passed 4-15-02)

CHAPTER 32: EMPLOYEE POLICIES

Section

32.01 Participation in State Retirement System
32.02 Updated service credits for retirement purposes
32.03 Increase in retirement annuities
32.031 Date of allowances and increases
32.04 Rate of deposit into State Retirement System
32.05 Supplemental Disability Benefits Fund
32.06 Supplemental Death Benefits Fund
32.07 Service retirement annuity program; occupational disability program
32.08 Prior service credit for service performed during probation
32.09 Special credit for active military service
32.10 Employees who have terminated previous membership in State Retirement System
32.11 Health benefits
32.12 Restricted prior service credit

§ 32.01 PARTICIPATION IN STATE RETIREMENT SYSTEM.

(A) On behalf of the city, the Board of Commissioners hereby exercises its option and elects to have the city and all of the employees of all departments, now existing, or hereafter established, participate in the Texas Municipal Retirement System as provided in Chapter 75, Acts of the 50th Legislature, as amended, (Art. 6243h, V.T.C.S.); and all of the benefits and obligations of such system are hereby accepted as to such employees.

(B) The City Manager is hereby directed to notify the Board of Trustees of the Texas Municipal Retirement System that the city has elected to participate and have the employees of all city departments participate in that system.

(C) Each person who becomes an employee of any department on or after the effective date of participation of such department shall become a member of the Texas Municipal Retirement System as a condition of his employment. The city may in the future refuse to add new departments or new employees to such system, but shall never discontinue as to any participants.

(D) In accordance with the provisions of the statute, the deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the several participating departments are hereby fixed at the rate of 3% of the earnings of each employee of those departments, and in determining the deposits to be made on account of such service the maximum earnings of this city is full salary.

(E) The City Clerk is hereby directed to remit to the Board of Trustees of the Texas Municipal Retirement System, at its office in Austin, Texas, the city's contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by the Board of Trustees under the provisions of Chapter 75, Acts of the 50th Legislature of the State of Texas, as amended. The City Clerk is authorized and directed to ascertain and

certify officially

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on behalf of the city, the prior service rendered to the municipality by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the City of Burkburnett, Texas, under the provisions of Chapter 75, Acts Regular Session, 50th Legislature, as amended, or in compliance with the rules and regulations of the Board of Trustees of the Texas Municipal Retirement System.
(Ord. 307, passed 3-1-71)

(F) Pursuant to Section 855.407(g) of the TMRS Act, the city hereby elects to make future normal and prior service contributions to its account in the municipal accumulation fund of the system at such combined rate of the total compensation paid by the city to employees who are members of the system, as the system's actuary shall annually determine as the rate necessary to fund, within the amortization period determined as applicable to the city under the TMRS Act, the costs of all benefits which are or may become chargeable to or are to be paid out of the city's account in said accumulation fund, regardless of other provisions of the TMRS Act limiting the combined rate of city contributions.
(Ord. 559, passed 11-17-97)

(G) Pursuant to the provisions of Section 854.202(g) of the TMRS Act, any employee of the city who is a member of the System is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the System performed for one or more municipalities that have adopted a like provision under Section 854.202(g) of the TMRS Act.
(Ord. 570, passed 4-19-99)

(H) The Board of Commissioners elects not to provide five-year vesting under Section 854.205 of the TMRS Act, and the city is hereby authorized and directed to file notice of this election with the Board of Trustees of the System before December 31, 2001.
(Ord. 628, passed 11-19-01)

§ 32.02 UPDATED SERVICE CREDITS FOR RETIREMENT PURPOSES.

(A) On the terms and conditions set out in Sections 853.401 through 853.404 of Subtitle G of Title 8, V.T.C.A., Government Code, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who has current service credit or prior service credit in the system in force and effect on January 1 of the calendar year preceding the allowance, by reason of service in the employment of the city, and on such date has at least 36 months of credited service with the system, is allowed Updated Service Credit (as that term is defined in subsection (d) of Section 853.402 of the TMRS Act).

(B) On the terms and conditions set out in Section 853.601 of the TMRS Act, any member of the System who is eligible for Updated Service Credits on the basis of service with the city, who has unforfeited credit for prior service and/or current service with another participating municipality or municipalities by reason of previous service, and was a contributing member on January 1 of the calendar year preceding the allowance shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in Section 853.601, both as to the initial grant thereunder and all future grants under this section.

(C) The Updated Service Credit hereby allowed and provided for shall be 100% of the "Base Updated Service Credit" of the member (calculated as provided in subsection (c) of Section 853.402 of the TMRS Act).

(D) Each Updated Service Credit allowed hereunder shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(E) The initial allowance of Updated Service Credit hereunder shall be effective on January 1, 2003, subject to approval by the Board of Trustees of the System. An allowance shall be made hereunder on January 1 of each subsequent year until this section ceases to be in effect under subsection (e) of Section 853.404 of the TMRS Act, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in subsection (d) of Section 853.404 of the TMRS Act.

(F) In accordance with the provisions of subsection (d) of Section 853.401 of the TMRS Act, the deposits required to be made to the System by employees of the several participating departments on account of current service shall be calculated from and after the effective date of this section on the full amount of such person's compensation as an employee of the city.
(Ord. 422, passed 9-16-85; Am. Ord. 441, passed 7-20-87; Am. Ord. 450, passed 9-19-88; Am. Ord. 463, passed 8-21-89; Am. Ord. 475, passed 9-17-90; Am. Ord. 486, passed 10-21-91; Am. Ord. 648, passed 10-21-02)

§ 32.03 INCREASE IN RETIREMENT ANNUITIES.

(A) On the terms and conditions set out in §§ 854.203 and 853.404 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the TMRS Act), 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 this city under current service annuities and prior service annuities arising from service by such employees to this city. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(B) The amount of 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% of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this section.

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

(D) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.

(E) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is an obligation of the city and of its account in the municipality accumulation fund of the System.
(Ord. 422, passed 9-16-85; Am. Ord. 441, passed 7-20-87; Am. Ord. 450, passed 9-19-88; Am. Ord. 463, passed 8-21-89; Am. Ord. 486, passed 10-21-91; Am. Ord. 537, passed 9-18-95; Am. Ord. 736, passed 8-20-07)

§ 32.031 DATE OF ALLOWANCES AND INCREASES.

The initial allowance of Updated Service Credit and increase in retirement annuities hereunder shall be effective on January 1, 1992, subject to approval by the Board of Trustees of the System. An allowance of Updated Service Credits and an increase in retirement annuities shall be made hereunder on January 1 of each subsequent year until this ordinance ceases to be effect under subsection (e) of Section 853.404 of the TMRS Act, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in subsection (d) of Section 853.404 of the TMRS Act.
(Ord. 486, passed 10-21-91)

§ 32.04 RATE OF DEPOSIT INTO STATE RETIREMENT SYSTEM.

(A) All employees of the city who are members of the Texas Municipal Retirement System shall make deposits to the system at the rate of 7% of their individual earnings. However, this rate shall not be applied to earnings in excess of the maximum earnings subject to retirement deductions as fixed by ordinance.

(B) Effective January 1, 1992, for each month of current service thereafter rendered by each of its employees who are members of the Texas Municipal Retirement System, the city will contribute to the current service annuity reserve of each such member at the time of his

or her retirement, a sum that is 200% of such member's accumulated deposits for such month of employment; and the sum shall be contributed from the city's account in the municipality accumulation fund.
(Ord. 383, passed 9-21-81; Am. Ord. 487, passed 10-21-91)

§ 32.05 SUPPLEMENTAL DISABILITY BENEFITS FUND.

The city by its Board of Commissioners hereby elects to have the employees of all participating departments of the city (as above defined) participate in and be covered by the Supplemental Disability Benefits Fund of the Texas Municipal Retirement System, as provided by Sections 62.003, 64.401 through 64.404, 65.313, and 65.408 of Title 110B, V.T.C.S.; and all of the benefits and obligations of participation in that Fund are hereby accepted by the city as to such employees.

(A) The City Manager is hereby directed to notify the Board of Trustees of the Texas Municipal Retirement System that the city has elected to participate and have the employees of the above-mentioned departments participate in the Supplemental Disability Benefits Fund of the system.

(B) Each person who becomes an employee of any participating department on or after the effective date of participation of such department in that Fund shall as a condition of his employment be covered into the Supplemental Disability Benefits Fund of the system. The city may in the future refuse to add new departments or new employees to the Fund, but shall never discontinue as to any members who are covered into the Fund.

(C) The City Secretary is directed to remit monthly to the Board of Trustees of the Texas Municipal Retirement System at its office in Austin, Texas, as the city's contributions to the Supplemental Disability Benefits Fund of the Texas Municipal Retirement System, such percentage of earnings of the above-mentioned employees of the city as may be fixed by the Board of Trustees of the Texas Municipal Retirement System, provided that the rate of contribution to the Fund shall not exceed 0.5% of the earnings of the employees of the city who are covered under the Fund; and such official shall make for the city such reports as the Board of Trustees of the Texas Municipal Retirement System may prescribe.
(Ord. 422, passed 9-16-85)

§ 32.06 SUPPLEMENTAL DEATH BENEFITS FUND.

The city hereby elects to participate in the Supplemental Death Benefits Fund of the Texas Municipal Retirement System for the purpose of providing in-service death benefits for each of the city's employees who are members of the System, and for the purpose of providing post-retirement death benefits for annuitants whose last covered employment was as an employee of the city, in the amounts and on the terms provided for in Sections 62.004, 64.601 through 64.605, 65.314, 65.409, and 65.502 of Title 110B, V.T.C.S.
(Ord. 422, passed 9-16-85)
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§ 32.07 SERVICE RETIREMENT ANNUITY PROGRAM; OCCUPATIONAL DISABILITY PROGRAM.

Pursuant to the provisions of Sections 64.202(f), 64.204, 64.405, 64.406, and 64.410 of Subtitle G of Title 110B, V.T.C.S., as amended by the 70th Legislature of the State of Texas, Regular Session, which Subtitle shall herein be referred to as the "TMRS Act," the city adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System (which retirement system shall herein be referred to as the "System"):

(A) Any employee of this city who is a member of the system is eligible to retire and receive a service retirement annuity, if the member has at least 25 years of credited service in that system performed for one or more municipalities that have participation dates after September 1, 1987, or have adopted a like provision under Section 64.202(f) of the TMRS Act.

(B) If a "vested member," as that term is defined in Section 64.204(b) of the TMRS Act, shall die before becoming eligible for service retirement and leaves surviving a lawful spouse whom the member has designated as beneficiary entitled to payment of the member's accumulated contributions in event of the member's death before retirement, the surviving spouse may by written notice filed with the system elect to leave the accumulated deposits on deposit with the system subject to the terms and conditions of said Section 64.2049(b). If the accumulated deposits have not been withdrawn before such time as the member, if living, would have become entitled to service retirement, the surviving spouse may elect to receive, in lieu of the accumulated deposits, an annuity payable monthly thereafter during the lifetime of the surviving spouse in such amount as would have been payable had the member lived and retired at that date under a joint and survivor annuity (Option 1) payable during the lifetime of the member and continuing thereafter during the lifetime of the surviving spouse.

(C) At any time before payment of the first monthly benefit of an annuity, a surviving spouse to whom division (B) applies may, upon written application filed with the system, receive payment of the accumulated contributions standing to the account of the member in lieu of any benefits otherwise payable under this section. In the event such a surviving spouse shall die before payment of the first monthly benefit of an annuity allowed under this section, the accumulated contributions credited to the account of the member shall be paid to the estate of such spouse.

(D) The rights, credits, and benefits hereinabove authorized shall be in addition to the plan provisions heretofore adopted and in force at the effective date of this section pursuant to the TMRS Act.

(E) Any employee of this city who is a member of the system is eligible to retire and receive a "standard occupational disability annuity" under Section 64.408 of the TMRS Act or an "optional occupational disability retirement annuity" under Section 64.410 of the

TMRS Act upon making application therefor upon such form and in such manner as may be prescribed by the Board of Trustees of the system, provided that the system's medical board has certified to said Board of Trustees: (1) that the member is physically or mentally disabled for further performance of the duties of the member's employment; (2) that the disability is likely to be permanent; and (3) that the member should be retired. Any annuity granted under this division (E) shall be subject to the provisions of Section 64.409 of the TMRS Act.

(F) The provisions relating to the occupational disability program as set forth in division (E) above are in lieu of the disability program heretofore provided for under Sections 64.301 to 64.308 of the TMRS Act.
(Ord. 440, passed 7-20-87)

§ 32.08 PRIOR SERVICE CREDIT FOR SERVICE PERFORMED DURING PROBATION.

(A) Effective September 1, 1989, any employee of this city who is a member of the Texas Municipal Retirement System and who performed service as a probationary employee for this city prior to September 1, 1989 for which the employee did not receive credited service in the System because the person, as a probationary employee, was not enrolled as a member of the System during the period of probationary employment, is hereby allowed to obtain prior service credit for the period of such probationary service (not in excess of six months), pursuant to the provisions of Section 63.303 of Subtitle G, Title 110B, V.T.C.S, as enacted by House Bill 1885, Acts of the Regular Session of the 71st Legislature.

(B) To obtain prior service credit allowable under division (A) above, any employee entitled thereto shall file a detailed written statement of the service claimed with the City Secretary within one year from the effective date of this section.

(C) As soon as practicable after the employee has filed a claim, the prior service credit under Section 63.303, Subtitle G of the Local Government Code, the City Secretary shall, if said officer determines that such service was performed as claimed, verify the prior service allowable (not exceeding six months) and the average monthly compensation paid the member during the period of probationary employment, and shall certify to the Board of Trustees of the System the creditable prior service approved, and the average monthly compensation paid to the person by the city during the period of probationary employment.
(Ord. 461, passed 8-21-89)

§ 32.09 SPECIAL CREDIT FOR ACTIVE MILITARY SERVICE.

(A) Effective September 1, 1989, and pursuant to Section 63.502, Subchapter F of Chapter 63, Title 110B, V.T.C.S., the city hereby elects to allow eligible members in its employment to establish credit in the Texas Municipal Retirement System for active military service performed as a member of the armed forces or armed forces reserves of

the United States or as an auxiliary of the armed forces or armed forces reserves. Eligible members as used herein shall be those employees meeting the criteria set forth in Sections 63.502(b) and 63.503 of said Subchapter F, and the amount and use of creditable military service shall be as further set forth in Section 63.505.

(B) In order to establish credit for military service hereunder, a member must deposit with the Texas Municipal Retirement System (in that member's individual account in the Employees Saving Fund), an amount equal to the number of months for which credit is sought, multiplied by $15. The city agrees that its account in the Municipality Accumulation Fund is to be charged at the time of the member's retirement with an amount equal to the accumulated amount paid by the member for military service credit, multiplied by the city's current service matching ratio in effect at the date the member applies for such military service credit.
(Ord. 462, passed 8-21-89)

§ 32.10 EMPLOYEES WHO HAVE TERMINATED PREVIOUS MEMBERSHIP IN STATE RETIREMENT SYSTEM.

(A) Effective October 1, 1989, and pursuant to Section 63.003 of Subtitle G of Title 110B, V.T.C.S., the city hereby elects to allow any member of Texas Municipal Retirement System who is an employee of this city on the first day of October, 1989, who has terminated a previous membership in said System, by withdrawal of deposits while absent from service, but who has at least 24 months of credited service as an employee of this city since resuming membership, to deposit with the System in a lump sum the amount withdrawn, plus a withdrawal charge of 5% of such amount for each year from date of such withdrawal to date of redeposit. Thereupon, such member shall be allowed credit for all service to which the member had been entitled at date of termination of the earlier membership, with like effect as if all such service had been rendered as a employee of this city, whether so rendered or not.

(B) The city agrees to underwrite and hereby assumes the obligations arising out of the granting of all such credits, and agrees that all such obligations and reserves required to provide such credits shall be charged to this city's account in the Municipality Accumulation Fund. The 5% per annum withdrawal charge paid by the member shall be deposited to the credit of the city's account in said Municipality Accumulation Fund; and deposits of the amount previously withdrawn by the member shall be credited to his or her individual account in the Employees Saving Fund of the System.
(Ord. 464, passed 8-21-89)

§ 32.11 HEALTH BENEFITS.

(A) The city hereby elects to provide health benefits coverage to its retirees through Texas Municipal League Group Benefits Risk Pool under the Pool's Interlocal Agreement, under the following conditions:

(1) The retiree with 25 years of service with the City of Burkburnett will be required to reimburse the city an amount equal to 100% of the active employee health insurance premium. In addition, if the retiree elects health insurance and/or dental insurance for any member of his/her family, 100% of the active dependent premium must also be reimbursed. Reimbursement is required no later than the last business day of each month.

(2) A retiree with less than 25 years service with the City of Burkburnett will be required to reimburse the city the full early retiree health insurance premium for the appropriate coverage(s) selected.

(3) All other conditions as prescribed in the City of Burkburnett Personnel Policy Handbook concerning early retiree health insurance protection will apply.

(B) The City hereby adopts the following definition of "retiree" for purposes of this section: an employee meeting the qualifications set out in the Texas Municipal Retirement System (TMRS) Act, and otherwise eligible for benefits.

(C) The City hereby adopts the following benefit plans to be provided to its retirees through the Texas Municipal League Group Benefits Risk Pool:

(1) The same medical plan(s) offered to active employees.

(2) Dental Plan III.

(D) The Interlocal Agreement in effect between the City of Burkburnett and the Texas Municipal League Group Benefits Risk Pool provides that the Board of Trustees may adopt rules and regulations. The rules and regulations of the Texas Municipal League Group Benefits Risk Pool allow the participating member entity to provide retiree medical coverage at the same contribution as charged to active employees or to select a contribution level which is 150% of the active employee contribution. The City of Burkburnett elects to have the retiree medical contribution be 150% for as long as the TML-GBRP offers this rate structure for retiree medical coverage. Other coverage's will be as established annually by the Texas Municipal League Group Benefits Risk Pool Board of Trustees.

(E) This section will only apply to individuals retiring after its effective date or to employees which retired under a previous ordinance. For individuals retiring after the effective date of this section to quality they must enroll for this coverage within thirty (30) days of their retirement.
(Ord. 567, passed 10-19-98; Am. Ord. 725, passed 10-16-06)

§ 32.12 RESTRICTED PRIOR SERVICE CREDIT.

(A) On the terms and conditions set out in Sections 853.305 of Subtitle G of Title 8, V.T.C.A., Government Code, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who is now or who hereafter becomes an employee of the city shall receive restricted prior service credit for service previously performed as an employee of any of the entities described in Section 853.305 provided that (1) the person does not otherwise have credited service in the System for that service, and (2) the service meets the requirements of said Section 853.305.

(B) The service credit hereby granted may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of Updated Service Credits.

(C) A member seeking to establish restricted prior service credit under this section must take action required under Section 853.305 while still an employee of the city.
(Ord. 651, passed 12-16-02)

CHAPTER 33: MUNICIPAL COURT OF RECORD

Section

33.01 Municipal Court of Record created
33.02 Name of Municipal Court of Record
33.03 Transition to Municipal Court of Record
33.04 Times for transaction of business
33.05 Jurisdiction
33.06 Judge; qualifications
33.07 Removal of judges
33.08 Court rules
33.09 Court staff
33.10 Recording of proceedings
33.11 Appeals

Cross-reference:
Municipal court, see Charter Article VII

§ 33.01 MUNICIPAL COURT OF RECORD CREATED.

A municipal court of record is hereby created for the City of Burkburnett, Texas in accordance with Texas Government Code, Chapter 3, the Uniform Municipal Courts of Record Act(herein "the Act") effective March 1, 2008 (the "effective date").
(Ord. 746, passed 2-18-08)

§ 33.02 NAME OF MUNICIPAL COURT OF RECORD.

The municipal court herein created shall be known and designated as the Municipal Court of Record of the City of Burkburnett, Texas.
(Ord. 746, passed 2-18-08)

§ 33.03 TRANSITION TO MUNICIPAL COURT OF RECORD.

The Municipal Court of Record of the City of Burkburnett, Texas shall be in lieu of the current Municipal Court of the City of Burkburnett, Texas and all cases pending in the Municipal Court of the City of Burkburnett, Texas on the effective date shall be transferred to, and thereafter disposed of in, the Municipal Court of Record of the City of Burkburnett, Texas.
(Ord. 746, passed 2-18-08)

§ 33.04 TIMES FOR TRANSACTION OF BUSINESS.

The Municipal Court of Record of the City of Burkburnett, Texas shall have no terms and may sit at any time for the transaction of business of the court.
(Ord. 746, passed 2-18-08)

§ 33.05 JURISDICTION.

The Municipal Court of Record of the City of Burkburnett, Texas shall have subject matter jurisdiction as provided by general law for municipal courts and, in addition, the following subject matter jurisdiction:

(A) Over criminal cases arising under ordinances authorized by Texas Local Government Code, § 215.072 (dairies; slaughterhouses), § 217.042 (nuisances), and § 341.903 (municipal owned property outside municipality).

(B) Concurrent jurisdiction with the justice court in the precinct in which the city is located in criminal cases that arise within the territorial limits of the municipality and are punishable only by fine.

(C) Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Texas Local Government Code, Subchapter A, Chapter 214(relating to dangerous structures), or Texas Transportation Code, Subchapter E, Chapter 683 (relating to junked vehicles; public nuisance and abatement).

(D) Concurrent jurisdiction with a district court or a county court at law under Texas Local Government Code, Subchapter B, Chapter 54 (relating to municipal health and safety Ordinances), within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction, for the purpose of enforcing health and safety and nuisance abatement ordinances.

(E) Authority to issue:

(1) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation;

(2) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises; and

(3) Writs of mandamus, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.
(Ord. 746, passed 2-18-08)

§ 33.06 JUDGE; QUALIFICATIONS.

(A) The Municipal Court of Record of the City of Burkburnett, Texas shall be presided over by one or more municipal judges.

(B) The Board of Commissioners shall appoint a presiding judge of the Municipal Court of Record of the City of Burkburnett, Texas and may appoint, from time to time, such other judges or temporary judges as it deems necessary in accordance with the Act.

(C) The Board of Commissioners shall establish a salary for each municipal judge appointed in accordance with the Act. The amount of a judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(D) Each municipal judge must:

(1) Be a resident of this state;

(2) Be a citizen of the United States;

(3) Be a licensed attorney in good standing; and

(4) Have two or more years of experience in the practice of law in this state.

(E) A person may not serve as municipal judge if the person is, otherwise, employed by the city. A municipal judge who accepts employment with the city vacates the judicial office.

(F) Each municipal judge shall serve for a term of two years commencing October 1 and ending on September 30 of the second year following the commencement date. The first term of office following adoption of this chapter shall commence on the effective date and shall end on September 30, 2009. The individual now serving as judge of the Municipal Court of the City of Burkburnett, Texas is hereby appointed as presiding judge of the Municipal Court of Record of the City of Burkburnett, Texas to serve the first term specified above.
(Ord. 746, passed 2-18-08)

§ 33.07 REMOVAL OF JUDGES.

A municipal judge may be removed from office at any time upon the grounds set forth for removing members of the Board of Commissioners or the reasons set forth in Texas Constitution, Article V, Section 1-a.
(Ord. 746, passed 2-18-08)

§ 33.08 COURT RULES.

The presiding judge of the Municipal Court of Record of the City of Burkburnett, Texas may make and publish all rules of practice and procedure necessary to expedite the trial of cases before the courts that are not inconsistent with law.
(Ord. 746, passed 2-18-08)

§ 33.09 COURT STAFF.

(A) The City Manager of the city shall appoint the following persons who will serve at the pleasure of the City Manager:

(1) A clerk of the Municipal Court of Record of the City of Burkburnett, Texas; and

(2) Such deputy clerks, warrant officers, or other personnel as needed for the proper operation of the Municipal Court of Record of the City of Burkburnett, Texas.

(B) Such officers shall have the duties and responsibility provided by the Act and applicable law and shall serve under the direction of the presiding judge as required by the Act. The individuals now serving as the Clerk and Deputy Clerk of the Municipal Court of the City of Burkburnett, Texas, respectively, are hereby appointed as the Clerk and Deputy Clerk, respectively of the Municipal Court of Record of the City of Burkburnett, Texas as of the effective date.
(Ord. 746, passed 2-18-08)

§ 33.10 RECORDING OF PROCEEDINGS.

The proceedings of the Municipal Court of Record of the City of Burkburnett, Texas shall be recorded by a good quality electronic recording device meeting the requirements of the Act and applicable law. A court reporter will not be required except for transcription of proceedings for purposes of appeal or as provided in the Act. The City Manager shall, from time to time, appoint an official court reporter who will have the qualifications provided by law for official court reporters. The official court reporter appointed by the City Manager shall serve as the pleasure of the City Manager who shall have authority to remove such official court reporter at any time. The appointment of an individual as the official court reporter shall not entitle such person to a salary nor shall such person have any right or expectation of continued appointment as the official court reporter.
(Ord. 746, passed 2-18-08)

§ 33.11 APPEALS.

(A) A defendant has the right of appeal from a judgment or conviction in the municipal court of record. The state has the right to appeal as provided by Texas Code of Criminal Procedure § 44.01, as amended.

(B) The defendant may not take an appeal until he or she files an appeal bond with the municipal court of record. The bond must be approved by the court and filed not later than the tenth day after the date on which the motion for new trial is overruled. The bond must be in the amount of $100 or double the amount of the fines and costs adjudged against the defendant, whichever is greater.

(C) A defendant must pay the fee of $25 for preparation of the clerk's record not later than ten days after the date on which the motion for new trial is overruled. The court shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.

(D) The appellant shall pay for any reporter’s record containing a transcription of the proceeding. Before the recorded proceedings are transcribed, the defendant shall, unless found by the court to be unable to pay for the reporter’s record, post a cash deposit with the municipal court for the estimated cost of the record. The cash deposit shall be based on an estimate provided by the court reporter or the

length of the proceedings as indicated by the amount of tape. If the cash deposit exceeds the actual cost of the reporter's record, the court reporter shall refund the difference to the defendant. If the cash deposit is insufficient to cover the actual cost of the transcription, the appellant must pay the additional amount due before the transcription may be submitted. If a case is reversed on appeal, the court shall promptly refund to the appellant any amounts paid for the reporter's record.
(Ord. 746, passed 2-18-08; Am. Ord. 908, passed 9-19-16)

CHAPTER 34: CITY POLICIES

Section

34.01 City not responsible for claims of damages unless written notification is given
34.02 Events held within city limits
34.03 National Incident Management System

§ 34.01 CITY NOT RESPONSIBLE FOR CLAIMS OF DAMAGES UNLESS WRITTEN NOTIFICATION IS GIVEN.

The city shall not be held responsible on account of any claim for damages to any person or property, unless the person making the complaint or claiming such damages, shall within 30 days after the time at which it is claimed the injury and such damages were inflicted upon such person or property file with the City Secretary a notice in writing under oath stating the nature and character of the damages or injuries; the circumstances under which it happened, the conditions causing the same, with a detailed statement of each item of damages and the amount thereof.
(Ord. 344, passed 6-27-77)

§ 34.02 EVENTS HELD WITHIN CITY LIMITS.

(A) Location. No events shall be held on property owned by the City of Burkburnett without prior approval of the City Manager. Events held on private property, but open to the public (parking lots, etc.) must have the property owner's permission in writing, and provide to the chief of police prior to scheduling the event. It shall be unlawful for any organizer or producer of indoor/outdoor events to hold such events within 300 feet of any private residence, church or school.

(B) Application, permit. An application may be obtained from the City Clerk at City Hall. The organizer/producer shall make application for a permit to the City Clerk, who shall, if same is in proper form refer such application to the City Manager.

(C) Rules of conduct.

(1) There shall be absolutely no alcohol on the premises.

(2) Abusive and/or profane language will not be tolerated.

(3) All drug and penal laws will be strictly enforced.

(4) Noise from live bands and/or other sound systems will be at a level which does not disturb the peace and tranquility of the neighborhood.

(D) Hours. Events during week days will be held between 9:00 a.m. and 2:00 p.m. This is necessary to reduce traffic congestion and

interruption of school activities. Weekend hours will be approved by the City Manager.

(E) Security. Organizers/producers for such events shall be responsible for the hiring of off duty police officers needed incidental to the handling of large crowds and for protection of property, equipment or people and shall be responsible for compensation at the rate of $20.00 per hour per officer.

(1) Ratio of Officers:

(a) Two officers under 100 people;

(b) One officer per each 100 people thereafter.

(2) Organizers/producers will submit an estimate number of people expected at the event to the chief of police to determine number of officers.

(F) Sanitation. Organizers/producers shall be responsible for providing trash receptacles and for clean up of all trash at the conclusion of the event. In areas where the availability of restroom facilities are non-existent or limited, port-a-potties will be provided by the organizers/producers, at a ratio of one port-a-potty per each ten people expected in attendance.

(G) Medical. Organizers/producers shall be responsible for providing stand-by medical personnel at the scene of the event to provide emergency medical services as needed.

(H) Parking. Organizers/producers shall be responsible for having parking attendants available to control parking to insure a smooth flow of traffic and to prevent traffic hazards.

(I) Penalty. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction hereof, shall be fined not less than $100 and not more than $500.
Ord. 563, passed 8-17-98)

§ 34.03 NATIONAL INCIDENT MANAGEMENT SYSTEM.

The city hereby adopts the National Incident Management System (NIMS), dated March 1, 2004, which contains a practice model for the accomplishment of the significant responsibilities associated with prevention, preparedness, response, recovery and mitigation of all major and national hazards situations.
(Ord. 702, passed 9-12-05)

CHAPTER 35: RECORDS MANAGEMENT

Section

35.01 Definitions
35.02 City records declared public property
35.03 Policy
35.04 Designation of Records Management Officer
35.05 Records management plan to be developed; approval of plan; authority of plan
35.06 Duties of Records Management Officer
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35.09 Duties and responsibilities of records liaison officers
35.10 Records control schedules to be developed; approval; filing with state
35.11 Implementation of records control schedules; destruction of records under schedule
35.12 Destruction of unscheduled records

§ 35.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CITY CLERK." The officer who by ordinance, order or policy is in charge of an office of the city that creates or receives records.

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

"ESSENTIAL RECORD." Any record of the city necessary to the resumption or continuation of operations of the city in an emergency or disaster, to the recreation of the legal and financial status of the city or to the protection and fulfillment of obligations to the people of the state.

"PERMANENT RECORD." Any record of the city for which the retention period on a records control schedule is given as permanent.

"RECORDS CONTROL SCHEDULE." A document prepared by or under the authority of the Records Management Officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

"RECORDS MANAGEMENT." The application of management techniques to the creation, use, maintenance, retention, preservation and disposal of records for the purpose 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." The person designated in § 35.04.

"RECORDS MANAGEMENT PLAN." The plan developed under § 35.05.

"RETENTION PERIOD." The minimum time that must pass after the creation, recording or receipt of a record or the fulfillment of certain actions associated with a record, before it is eligible for destruction.
(Ord. 478, passed 2-18-91)

§ 35.02 CITY RECORDS DECLARED PUBLIC PROPERTY.

All city records as defined in § 35.01 are hereby declared to be the property of the city. No city official or employee has by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.
(Ord. 478, passed 2-18-91)

§ 35.03 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 city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.
(Ord. 478, passed 2-18-91)

§ 35.04 DESIGNATION OF RECORDS MANAGEMENT OFFICER.

The City Clerk, and the successive holders of said office, shall serve as Records Management Officer for the city. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library within ten days of the initial designation or of taking up the office, as applicable.
(Ord. 478, passed 2-18-91)

§ 35.05 RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN.

(A) The Records Management Officer and the City Manager shall develop a records management plan for the city for submission to the Board of Commissioners. 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 that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law effectively.

(B) Once approved by the Board of Commissioners 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 chapter 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. (Ord. 478, passed 2-18-91)

§ 35.06 DUTIES OF RECORDS MANAGEMENT OFFICER.

In addition to other duties assigned in this chapter, the Records Management Officer shall:

(A) Administer the records management program and provide assistance to department heads in its implementation;

(B) Plan, formulate and prescribe records disposition policies, systems standards and procedures;

(C) In cooperation with department heads identify essential records and establish a disaster plan for each city office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;

(D) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;

(E) Establish standards for filing and storage equipment and for recordkeeping supplies;

(F) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city;

(G) Provide records management advice and assistance to all city departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;

(H) Monitor records retention schedules and administrative rules issued by the Texas 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;

(I) Disseminate to the City Manager and department heads information concerning state laws and administrative rules relating to local government records;

(J) Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;

(K) Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this chapter;

(L) Ensure that the maintenance, preservation, microfilming, destruction or other disposition of city records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

(M) Maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;

(N) Report annually to the City Manager on the implementation of records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under division (M) above; and

(O) Bring to the attention of the City Manager noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local Government Records Act.
(Ord. 478, passed 2-18-91)

§ 35.07 DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS.

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

(A) 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 chapter;

(B) Adequately document the transaction of government business and the services, programs and duties for which the department head and his or her staff are responsible; and

(C) Maintain the records in his or her care and carry out their preservation, microfilming, destruction or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this chapter.
(Ord. 478, passed 2-18-91)

§ 35.08 DESIGNATION OF RECORDS LIAISON OFFICERS.

The city library is hereby designated as the official liaison officer to assist the City Clerk. Each department head may designate a member of his or her staff to serve as Records Liaison Officer for the implementation of the records management program in the department. If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head shall designate the number of Records Liaison Officers specified by the Records Management Officer. Persons designated as Records Liaison Officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the city maintained by the department. In the event of the resignation, retirement, dismissal or removal by action of the department head of a person designated as a Records Liaison Officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as Records Liaison Officer for his or her department.
(Ord. 478, passed 2-18-91)

§ 35.09 DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS.

In addition to other duties assigned in this chapter, Records Liaison Officers shall:

(A) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

(B) In cooperation with the Records Management Officer coordinate and implement the policies and procedures of the records management program in their departments; and

(C) Disseminate information to department staff concerning the records management program.
(Ord. 478, passed 2-18-91)

§ 35.10 RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE.

(A) The Records Management Officer, in cooperation with department heads and Records Liaison Officers, shall prepare records

control schedules on a department-by-department basis listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of city records as the records management plan may require.

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

(C) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the City Clerk.

(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.
(Ord. 478, passed 2-18-91)

§ 35.11 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 § 35.06 shall be implemented by department heads and Records Liaison Officers according to the policies and procedures of the records management plan.

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

(C) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer and the City Manager.
(Ord. 478, passed 2-18-91)

§ 35.12 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.
(Ord. 478, passed 2-18-91)

CHAPTER 36: CITY COMMISSIONERS

Section

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GENERAL PROVISIONS

§ 36.01 AUTHORITY.

Article IV, Sec. 16 of the Charter of the City of Burkburnett grants to the City Commissioners the right to determine its own rules

of procedure; these rules are enumerated under and by authority of such provisions.
(Ord. 552, passed 6-16-97)

GENERAL RULES OF PROCEDURE

§ 36.20 RULES OF COUNCIL.

The City Commissioners shall determine its own rules and order of business. (Article IV, Sec. 16 of the Charter.)
(Ord. 552, passed 6-16-97)

§ 36.21 CONDUCT OF MEETINGS.

Meetings of the City Commissioners shall be conducted according to rules and procedures adopted by the Commissioners, as well as the terms and provisions of Robert's Rules of Order Revised, when not inconsistent.
(Ord. 552, passed 6-16-97)

§ 36.22 MEETINGS SHALL BE PUBLIC.

All meetings of the City Commissioners shall be public, and notices thereof shall be posted as provided for under the Government Code Sec. 551 (the Open Meetings Act). Except in the case of an emergency meeting, all members shall be given notice 72 hours before the time set for any meeting.
(Ord. 552, passed 6-16-97)

§ 36.23 REGULAR MEETINGS.

Regular meetings of the City Commissioners shall be on the 3rd Monday of each month at 7:00 p.m.
(Ord. 552, passed 6-16-97)

§ 36.24 [RESERVED.]

§ 36.25 EMERGENCY MEETINGS.

In case of an emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if members receive and notice is posted two hours before the meeting is convened.
(Ord. 552, passed 6-16-97)

§ 36.26 RECESSED MEETINGS.

No meeting shall be recessed for a longer period of time than until the next regular meeting except when required information has not been received.
(Ord. 552, passed 6-16-97)

§ 36.27 QUORUM.

A quorum consists of four members, of whom the Mayor shall be counted as one. The affirmative vote of four members shall be required for the transaction of business.
(Ord. 552, passed 6-16-97)

§ 36.28 ABSENCE OF MAYOR.

The Mayor Pro-Tem shall act in the absence of the Mayor at a scheduled meeting.
(Ord. 552, passed 6-16-97)

§ 36.29 ABSENCE OF BOTH MAYOR AND MAYOR PRO-TEM.

In the absence of both the Mayor and the Mayor Pro-Tem at a scheduled meeting, the meeting shall be opened, for the purpose of allowing the Commissioners to elect a Chairman.
(Ord. 552, passed 6-16-97)

§ 36.30 [RESERVED.]

§ 36.31 CITY MANAGER OR ACTING CITY MANAGER.

The City Manager or Acting City Manager, unless excused, shall attend all Council meetings and, upon request, designate workshop sessions and shall make recommendations and take part in discussion.
(Ord. 552, passed 6-16-97)

§ 36.32 CITY CLERK OR ACTING CITY CLERK.

The City Clerk or Acting City Clerk shall attend all meetings, unless excused, and keep all official minutes and tapes of Council proceedings.
(Ord. 552, passed 6-16-97)

§ 36.33 ATTENDANCE OF CITY EMPLOYEES.

The Commissioners may request, through the City Manager, that any officer or employee of the city attend Council meetings to present information relating to business before the Commissioners.
(Ord. 552, passed 6-16-97)

§ 36.34 REVIEW AND DISCIPLINE.

Complaints, charges and discipline concerning Council members or city personnel shall be discussed in Executive Session unless the person charged or the person against whom a complaint has been lodged

shall request a public hearing. The Commissioners shall also receive any reports and/or recommendations as shall be submitted by the City Manager.
(Ord. 552, passed 6-16-97)

§ 36.35 MINUTES OF MEETING.

An account of all proceedings of the Commissioners shall be recorded and shall be open to public inspection.
(Ord. 552, passed 6-16-97)

§ 36.36 SUSPENSION AND AMENDMENT OF RULES.

Any provisions of these rules not governed by federal or state law or the City Charter may be temporarily suspended by a majority vote of all members present of the Commissioners and may be amended by a vote of a majority of the members present of the Commissioners, if such amendment was introduced at the previous regular meeting of the Commissioners and shall have received preliminary approval of the majority of Commissioners at such meeting.
(Ord. 552, passed 6-16-97)

ORDER OF BUSINESS

§ 36.45 AGENDA.

(A) The Mayor, City Manager, Assistant City Manager or his designee shall prepare an agenda and shall cause the same to be posted 72 hours prior to a meeting and to be delivered to members of the Council. No items shall be included in the agenda unless a request to include the same has been made to the City Manager or City Clerk on or before 12:00 noon on the Thursday next preceding the Monday meeting. In the event of an emergency meeting of the Commissioners, this provision shall be suspended when not inconsistent with the provisions of federal or state law or the Charter of the City of Burkburnett.

(B) In order to facilitate the agenda process, any Commissioner may place an item on the agenda. The Commissioner requesting the agenda item will be responsible for the preparation of an appropriate Agenda Item Cover Sheet and any background information necessary for the presentation at the meeting. Any staff assistance, if required, should be requested through the City Manager's office. Agenda items must be provided to the City Clerk's office at City Hall by 12:00 noon on the Thursday preceding the Monday meeting.
(Ord. 552, passed 6-16-97)

§ 36.46 CONSENT AGENDA.

(A) There is hereby established as a part of every agenda for regular and/or special meetings of the City Commissioners of the City of Burkburnett, a portion of said agenda which shall be labeled "Consent Agenda." Said Consent Agenda may consist of any and all business regularly coming before the City Commissioners of the City of

Burkburnett, excluding ordinances adopting or amending, on either first, second or third reading, existing franchise or new franchise ordinances, and ordinances adopting, amending or otherwise relating to the budget of the City of Burkburnett. All items set out in the Consent Agenda shall be deemed passed, and the City Clerk is authorized to affix to all ordinances therein set out, consecutive numbers beginning with the first number available for new ordinances, upon the passage of a motion, by a majority vote of the members of the City Commissioners, that the consent agenda be adopted. No further action shall be deemed necessary, and all such items appearing thereon, upon the passage of such motion, shall be deemed adopted as if voted upon separately and as if the caption and/or body of any ordinance therein set out shall have been read in full.

(B) Any Commissioner may request at any time that an item be removed from the Consent Agenda and considered as a separate agenda item.
(Ord. 552, passed 6-16-97)

§ 36.47 CONSIDERATION OF AGENDA ITEMS.

In the event a motion is made requesting additional information or for delay to obtain additional information, and is passed by a majority vote of the members of the Commissioners, the Commissioners may defer action on such agenda item to the next regular meeting of the City Commissioners or such later meeting as shall be necessary to receive needed information.
(Ord. 552, passed 6-16-97)

§ 36.48 MINUTES OF PREVIOUS MEETING.

The City Clerk shall be directed to have prepared and submitted to the Commissioners no later than Thursday preceding a regular Monday meeting, the minutes of the last meeting of Commissioners.
(Ord. 552, passed 6-16-97)

AGENDA PROCEDURE AND ORDER

§ 36.55 AGENDA PROCEDURE.

This section is designed to establish an orderly procedure for handling agenda items.

(A) Mayor Shall Read. The Mayor shall introduce each item on the agenda by providing a brief explanation thereof. In addition, in the event witnesses shall come before the Commissioners, the Mayor shall introduce the person making the presentation or declare the discussion to be open.

(B) Council Discussion. Items on the agenda shall be formally introduced by motions duly made and seconded by any of the several members of the City Commissioners. In the event an item provides for consideration and action on a proposed ordinance, the caption of the

ordinance shall be read and included as part of the motion. Following a motion duly made and seconded, discussion of the agenda item shall be open to the members of the City Commissioners.

(C) Mayor or Clerk to State Question. Before any vote is taken on any question or ordinance before the Commissioners, the Mayor or City Clerk shall restate the motion having been submitted and then call for the question. In the event the matter before the Commissioners is a proposed ordinance and if the caption of the ordinance was read at the time of introduction, then only a brief summary of the ordinance need be stated.

(D) Mayor or Clerk to Announce the Vote. The Mayor or the City Clerk shall at the conclusion of the vote on each question properly submitted, announce the result.

(E) Mayor to State Result. The Mayor shall clearly state the result of any action taken by the Commissioners at the conclusion of the vote.

(F) Vote on Any Motion. All votes on any motion shall be recorded and if not unanimous, should clearly state the name of each Commissioner voting in the minority or abstaining.

(G) Abstention. A vote of abstention shall not be considered as approving or disapproving the motion. The person abstaining, upon request of a majority of the members of the City Commissioners, may state his reasons for abstaining for the record; however, said Commissioner member may decline.

(H) Conflicts of Interest Disclosed by Affidavit.
(Ord. 552, passed 6-16-97)

§ 36.56 AGENDA ORDER.

The following order is the desired order for conducting the business of the Commissioners. However, at the discretion of the Mayor, when it appears that it is in the best interest of the Commissioners and the citizens of the city, any item appearing on the agenda may be considered in any order determined by the Mayor. In addition, the City Manager may authorize adjustments to this agenda order as shall be necessary to carry forward the intent of the Commissioners.

(A) Call to Order.

(B) Approval or Correction of Minutes. The minutes of the previous meeting of the City Commissioners shall be submitted to the Commissioners and shall either stand as submitted or be corrected and stand as corrected.

(C) Personal Audience Comments. Individuals wishing to address the City Commissioners will be limited to five minutes with a possible two minute extension following the approval by a majority vote of the

members of the City Commissioners. All persons desiring to address the Commissioners must submit a sign-up card to the City Clerk prior to the posted time of the meeting. Any request received after this time may be considered for the following Commissioners meeting.

(D) Audience Comments on Agenda Items. The public may speak to items listed on the posted agenda. All persons desiring to address a specific agenda item must submit a sign-up sheet to the City Clerk prior to the reading of that item. The presiding officer will then allow comments from individuals before each agenda item for which they have requested to be heard. Comments will be limited to three minutes with a maximum two minute extension following the approval by a majority of the members of the City Commissioners.

(E) Council Correspondence. This will be a separate item appearing on the agenda to enable the Commissioners to respond to any correspondence they so desire.

(F) Council Comments. Each Commissioner shall be entitled to make any statement on any matter which is deemed to be of interest and importance to the City, members of staff and/or other members of the Council. There shall be no time limit imposed upon the time allotted for such comments; however, Council Comments may be closed at any time by a majority vote of the members of the City Commissioners.

(G) Executive Session. In the event it is necessary for Commissioners to retire to Executive Session for the purpose of discussing matters which are permissible, as enumerated in the Open Meetings Act, Government Code Section 551, the Commissioners may retire into closed session; however, before said session begins, the Mayor shall announce that the Executive Session is commencing. The order in which an Executive Session may appear on the agenda is subject to the discretion of the Commissioners. Disclosure of topics to be discussed shall be made in accordance with the requirements of the Open Meetings Act.

(H) Adjournment. Upon motion duly made and seconded, the meeting of the City Commissioners may be adjourned by a majority of those members of the City Commissioners present and voting.
(Ord. 552, passed 6-16-97)

COMMENTS FROM AUDIENCE

§ 36.65 RULES GOVERNING COMMENTS FROM AUDIENCE.

The following rules shall control audience comments, it being the desire of the Commissioners to hear from the citizens of Burkburnett and to stimulate discussion of subjects which are properly a concern of the Commissioners.

(A) Mayor to State Rules for Audience Comments. Immediately preceding the opening of audience comments, the Mayor shall summarize briefly the rules governing comments from the audience.

(B) Mayor Shall Recognize Interested Citizens. Each person desiring to comment must first be recognized by the Mayor and shall first give his or her name and address. The Mayor shall recognize each person in turn, hearing from all who desire to comment.

(C) Time Limit. A time limit of five minutes under Personal/Audience Comments and three minutes under Audience Comments on Agenda Items shall govern each comment unless the limit is waived by a majority vote of the City Commissioners.

(D) Termination of Audience Comments. Audience comments may be concluded by the Mayor, or if appealed, by a vote of four members of the City Commissioners. In the event of pressing business before the Commissioners or matters requiring immediate Commissioners attention or action, the Commissioners may, prior to the opening of audience comments, by a majority vote of the members of the City Commissioners, set a maximum time limit for each comment. At any time, the Commissioners may, by a majority vote of the members of the City Commissioners, terminate audience comments for a particular Commissioners meeting. In all cases, the Mayor shall announce the conclusion of audience comments.

(E) Subjects Introduced by Comments to be Deferred. Any subject not on the agenda but introduced in open discussion may be deferred for appropriate investigation or future Council consideration upon a majority vote of the members of the City Commissioners.

(F) Preservation of Order. The Mayor shall preserve order and decorum and, if necessary, shall cause to be silenced or removed from the Council Chamber, any person speaking out of order or disrupting the order of the meeting.
(Ord. 552, passed 6-16-97)

RULES OF PARLIAMENTARY PROCEDURE

§ 36.75 RULES GUIDING CONDUCT OF BUSINESS BEFORE COMMISSIONERS.

This section is a brief discussion of the parliamentary rules which shall guide the conduct of business before the Commissioners. These rules, and the provisions of Robert's Rules of Order Revised, shall control the deliberations of the Commissioners, provided they are not inconsistent with federal or state law or the Charter of the City of Burkburnett. This section is simply a guide of those rules which may be the most useful in the orderly consideration of city business before the Commissioners.

(A) Preservation of Order. The Mayor shall preserve order and decorum, prevent the impugning of member's motives and confine members to debate of the questions under discussion.

(B) Motion to Adjourn. A motion to adjourn may be made at any time upon being recognized by the Mayor so long as no one has been previously recognized and is speaking; such a motion requires a second and it requires a majority vote to pass.

(C) Point of Order.

(1) A member of the Commissioners may raise a point of order at any time whether or not another member of the City Commissioners is speaking. A point of order is a statement to the Mayor that a particular motion before the City Commissioners or other matter is out of order or to make an inquiry of the Mayor as to parliamentary procedure or for information. As soon as a point of order has been disposed of, the person interrupted may continue speaking.

(2) In the event that a member asserting a point of order is overruled by the Mayor, he or she may appeal to the members of City Commissioners for a final decision. The Mayor shall then briefly state the reasons for his decision and the decision of the Mayor may be overruled by a majority vote of the members of the City Commissioners.

(D) Suspension of the Rules. A member of the City Commissioners may move to suspend the rules that interfere with a particular matter that is of apparent importance to the Commissioners and should be considered by the Commissioners immediately or out of order. In order for this to be accomplished, it is necessary that a majority vote be obtained. However, a motion to suspend the rules cannot interrupt an individual speaking.

(E) Motion to Withdraw a Motion. A person making the motion may move to withdraw his or her motion, and it is withdrawn unless an objection is raised. If a member of the City Commissioners objects to the withdrawal of the motion, then the Mayor, upon motion from a member of the City Commissioners, may put the matter to an immediate vote and if the majority of the members of the City Commissioners vote to allow removal of the motion, it is withdrawn.

(F) Motion to Object to the Consideration of a Motion. A member of the City Commissioners may object to the consideration of a motion, and such objection may be made at any time, even when a member of the City Commissioners is speaking. In order to stop the consideration of a motion, a majority vote of the members of the City Commissioners present is required, which in no event shall be less than four members of the City Commissioners.

(G) Tabling. In order to table a motion, a motion must be made and can only be made at such time when another member of the City Commissioners is not speaking; the matter must then be put to a vote by the Mayor and upon a vote of a majority of the members of the City Commissioners, it may be tabled.

(H) Motion to Close Debate. A motion to close debate on a particular matter before the Commissioners can only be made at such time as the person making the motion is recognized by the Mayor and no one else is speaking. In order to close debate, a majority is necessary.

(I) Motion to Postpone Consideration. A motion may be made to postpone consideration of a pending motion. This must be made at a time when the Mayor has recognized the mover and no one else is speaking. A vote of the majority of the members of the City Commissioners will carry this motion.

(J) Amending a Motion. A motion may be amended by a member of the City Commissioners stating that he wishes to amend. This motion is debatable and can be passed by a majority vote of the members of the City Commissioners.

(K) Questions to Contain One Subject. All questions submitted for vote shall contain only one subject. If two or more subjects are involved, any member of the City Commissioners may require division.

(L) Order of Precedence of Motions. Robert's Rules of Order Revised shall prevail as to the order of precedence of motions and types of motions.

(M) Right to Floor. Any member of the City Commissioners desiring to speak shall be recognized by the Mayor and shall confine his remarks to the subject under consideration. No member shall speak more than once to a question until every member wishing to speak shall have spoken.

(N) Point of Order. The Mayor shall determine all points of order, subject to the right of any member to appeal to the Commissioners or request a parliamentary opinion of the City Attorney.

(O) Reconsideration by motion of an action of the commissioners can be made no later than the next succeeding regular meeting. Such motion can only be made by a member who voted with the majority. It can be seconded by any member. No question shall be twice reconsidered, except by a majority vote of the members of the City Commissioners, except that action relating to any contract may be reconsidered at any time, before final execution thereof.
(Ord. 552, passed 6-16-97)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND REFUSE

51. NATURAL GAS

52. SEWERS

53. WATER

54. STORMWATER DRAINAGE UTILITY SYSTEM

CHAPTER 50: GARBAGE AND REFUSE

Section

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§ 50.01 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"APPLIANCES." Household only, cookstoves, dishwashers, microwaves, ovens, refrigerators, freezers and the like.

"CITIZEN COLLECTION STATION." (See 330.2 taken from Texas Natural Resource Conservation Commission Rules and Regulations). A facility established for the convenience and exclusive use of residents (not commercial or industrial users or collection vehicles). The facility may consist of one or more storage containers (limit two), bins, or trailers.

"COMMERCIAL." Any individual, person, firm, corporation or association that is engaged in the hauling of any material to the citizen collection station, up to three, five cubic yard loads per week, in any two weeks, in any one month.

"DRY GARBAGE." Refuse, trash, rubbish, such as feathers, coffee grounds, tin cans, paper, boxes, glass, ashes, cinders, rocks, old

clothes and shoes, broken dishes and utensils, old iron, tin, zinc, and all kinds of junk and useless material and waste of every description, including grass, shrubs, and tree trimmings and cuttings.

"DUMPSTERS." The three cubic yard trash container owned by the contractor and used for the depositing or dumping of trash.

"INDUSTRIAL." Any business in the production and distribution of goods.

"TRASH." Any man-made or man used waste, which is deposited within the city, other than in the dumpster or other trash containers, tends to create a danger to public health, safety and welfare or to impair the environment of the people of the city.

"WET GARBAGE." All animal or vegetable matter, such as waste material from kitchens, grocery stores, butcher shops, restaurants, cafes, hotels, rooming, and boardinghouses, including scraps of meat, bread, bones, and peelings of fruit and vegetables.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94)

§ 50.02 COLLECTIONS BY AN INDEPENDENT CONTRACTOR.

The collection of garbage in the city shall be the duty of the independent contractor, the employees of which shall make periodic garbage pickups throughout the city from disposable containers provided by the contractor, city, or by the citizens; providing the containers are of sufficient design and strength to contain the waste materials pending collections by the contractor.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94)

§ 50.03 CONTAINERS REQUIRED.

(A) Each owner, occupant, tenant, or lessee using and occupying any residence, building, house, or structure within the corporate limits of the city as a place of abode or as a place of business is hereby required to keep and maintain, at all times at a convenient place at his dwelling or place of business, if the business is of a type that accumulates wet garbage in connection with the operation of same, containers of standard type and construction, and in sufficient numbers to properly receive and hold all wet garbage being disposed of at such dwelling or place of business. Each such owner, tenant, occupant or lessee is hereby further required to keep and maintain at his dwelling and place of business, if his business is of such a character that dry garbage is accumulated in the operation thereof, adequate containers in sufficient numbers for the depositing and keeping of dry garbage. All garbage produced or accumulated on the premises shall be deposited in such containers.

(B) All containers required by division (A) of this section shall not exceed 30 gallons in capacity. These containers may be constructed of plastic bags; however, all containers shall be of sufficient strength for their intended purpose. Plastic bags shall be a minimum of two mil, plus or minus 5%.

(C) All containers required by division (A) of this section shall be equipped with an adequate lid or cover, which lid or cover shall at all times be kept on and fastened so that flies and other insects may not have access to the contents thereof, and the same shall be removed while depositing additional garbage therein.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.04 PLACEMENT FOR COLLECTION.

(A) If the house, building, or premises from which garbage is to be collected and removed is adjacent to an alley, the owner, occupant, tenant, or lessee of such premises shall be required to keep the garbage container within his private property until the day of or the evening before, the day of collection. In the event it is not practicable to collect and remove the garbage from the alley, or if the alley service is not available, the owner, occupant, tenant, or lessee shall keep the container at a point behind the building line until the day of (or the evening before under unavoidable conditions) for collection.

(B) When placing the containers for collection, wet garbage shall be contained in a suitable manner to prevent odors from escaping and the containers placed adjacent to the alley, or when alley service is not available, adjacent to the front curb line. When no curb is in front of the house, then containers shall be placed on the property line.

(C) No metal or plastic cans or barrels will be allowed at pickup points. Sacks must set freely either on the ground or upon a rack so that no sacks will be in a bind on lifting.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.05 DEPOSITING GARBAGE IN OTHER THAN CONTAINER PROHIBITED.

It shall be unlawful for any person to place, throw, or otherwise deposit any garbage or refuse on any lot or parcel of land or on any street, alley, sidewalk, or other place in the city, except in a container meeting the requirements of this subchapter.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.06 GARBAGE NOT TO BE PLACED IN OPEN BINS.

Garbage shall not be placed in open bins where collectors have to remove it by hand or forks.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.07 PREPARATION OF BRUSH, SHRUBS, AND TREE TRIMMINGS FOR COLLECTION.

All brush, shrubs, tree trimmings, and cuttings to be collected by the city shall be reduced to sufficient size and shape to permit handling by one man. Trimmings with diameter of five inches or less may be up to 12 feet in length. Trimmings with diameter over five inches must not weigh over 50 pounds. This work will be picked up at the discretion of the city, with rates established by the Board of Commissioners at $25 for the first hour. Each half hour thereafter will be $10. This service will not be provided when the work is performed by professional tree service.
(Ord. 356, passed 5-22-78; Am. Ord. 495, passed 8-17-92; Am. Ord. 515, passed 9-20-93; Am. Ord. 522, passed 3-21-94)

§ 50.08 DISPOSAL OF DEAD ANIMALS, MANURE, AND THE LIKE.

(A) No rocks, dirt, glass, dead fowl, manure, chicken or rabbit droppings, human excretion or dead animals shall be placed in garbage containers provided in accord with this subchapter. The same shall be placed in separate receptacles and disposed of by the owner at his own expense, and it shall be unlawful to deposit the same on any street, alley, or other place or to retain the same on the premises so as to become a nuisance.

(B) It shall be the duty of the independent contractor to see that such refuse is properly disposed of by the owner thereof when so ordered. Such refuse shall be hauled away from the premises of the owner thereof at his own expense and by his own means and such refuse shall not be considered garbage and shall not be transported by the contractor.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.09 RIGHT TO REFUSE COLLECTION WHERE DOGS LOOSE IN YARD.

The independent contractor shall have the right to refuse to pick up garbage on any property where dogs are loose in the yard.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94)

§ 50.10 COLLECTION CHARGES.

(A) The monthly rates for residential garbage service set by the Board of Commissioners shall be as follows:

Service	Rates
Residential collection Once a week pickup-polycart Once a week call-in bulk pickup	$ 21.65 per month

Service	Rates
Senior citizens (65 and over) Once a week pickup-polycart Once a week call-in bulk pickup	$ 17.29 per month
Extra polycart	$ 9.50 per month

(B) The monthly rates for commercial garbage service set by the Board of Commissioners shall be as follows:

Container Size	1X	2X	3X	5X
2 cubic yd.	$55.21	$110.10	$169.94	$294.87
4 cubic yd.	$92.24	$186.37	$287.90	$515.12
6 cubic yd.	$137.21	$286.37	$430.70	$771.54
8 cubic yd.	$182.21	$370.74	$573.52	$1,027.97

(C) The above schedule of rates shall be effective October 1, 2019.

(Ord. 356, passed 5-22-78; Am. Ord. 379, passed 10-21-80; Am. Ord. 407, passed 9-19-83; Am. Ord. 454, passed 9-19-88; Am. Ord. 469, passed 8-13-90; Am. Ord. 479, passed 8-19-91; Am. Ord. 492, passed 8-17-92; Am. Ord. 513, passed 8-23-93; Am. Ord. 522, passed 3-21-94; Am. Ord. 606, passed 10-16-00; Am. Ord. 678, passed 7-19-04; Am. Ord. 719, passed 8-21-06; Am. Ord. 737, passed 9-12-07; Am. Ord. 752, passed 9-4-08; Am. Ord. 767, passed 8-17-09; Am. Ord. 813, passed 9-19-11; Am. Ord. 827, passed 9-17-12; Am. Ord. 843, passed 9-16-13; Am. Ord. 866, passed 10-20-14; Am. Ord. 873, passed 4-20-15; Am. Ord. 887, passed 9-18-15; Am. Ord. 907, passed 9-19-16; Am. Ord. 928, passed 9-18-17; Am. Ord. 942, passed 9-17-18; Am. Ord. 955, passed 9-16-19)

§ 50.11 DELINQUENT ACCOUNTS.

If any person fails or refuses to pay the charges fixed against him for the collection of garbage and refuse when due, the city shall be authorized to cut off and disconnect the water and sewer services to his place of abode or place of business and to discontinue garbage pick up services until such fees have been paid in full. The person shall be required to maintain sanitation standards at his own expense until such time service is resumed.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94)

§ 50.12 NOTIFICATION OF VACANT PREMISES; CREDIT.

No credit will be given to any person on the charges fixed for the collection of garbage from his premises because of the vacancy of such premises, unless the city is notified within five days after such property is vacated. If such notice is given to the Water Department within five days after such property is vacated, credit will only be prorated from the date of notice.
(Ord. 356, passed 5-22-78; Am. Ord. 522, passed 3-21-94)

§ 50.13 EXCEPTIONS.

It shall be mandatory that all residents in the city limits use the garbage collection service provided by the city, and pay the city the set fee for such services each month, except in cases where the City Manager determines that it is not economically practical, in the city limits, to provide such service because of distances between houses or inaccessibility to houses. In the event of any resident, owner, or tenant thereof certifying to the city, that they do not desire such city garbage collection service and that they will dispose of their garbage themselves, then they shall pay the minimum charge set for resident garbage collection each month for the upkeep of the city and other necessary expenses that the city must maintain for proper garbage disposal in the city.
(Ord. 356, passed 5-22-78; Am. Ord. 454, passed 9-19-88; Am. Ord. 522, passed 3-21-94)

§ 50.14 AUTHORIZED USE OF DUMPSTERS.

(A) Dumpsters located in city parks and other city-owned property shall be used for the deposit of trash by persons using the park for picnics or recreational purposes and for no other purpose.

(B) All other dumpsters in commercial areas, mobile parks, apartment complexes, hotels, and motels are leased or rented to persons, firms, corporations, or their agents for a cash consideration to be used in connection with their business or establishment for their own exclusive use and benefit. No other person, firm, or organization other than those above designated shall use the dumpster for any purpose whatsoever. No person, firm or organization other than those above designated shall use the dumpster for any purpose whatsoever. No person, firm, or organization can give another person, firm, or organization permission to use their dumpster or any other dumpster.
(Ord. 373, passed 11-19-79; Am. Ord. 507, passed 6-21-93; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.15 UNAUTHORIZED TRASH DEPOSITED IN DUMPSTERS.

No person, firm, corporation or permitted persons are allowed to deposit the following trash into the city dumpsters, which includes but is not limited to, trees, tree trimmings, brush, grass, lumber, tires, batteries, liquid, oil, grease, oil filters, dirt, rocks, metal products and the like.
(Ord. 508, passed 7-19-93; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.16 DUMPSTERS LOCATED ON RESIDENTIAL GARBAGE COLLECTION ROUTE; BUSINESSES OPTING NOT TO HAVE DUMPSTERS.

(A) Any commercial business not located on a residential garbage collection route must be assigned a commercial dumpster.

(B) Any business located on a residential garbage collection route that opts not to have a dumpster may be charged more than a residential charge on the same route based on volume of the business, as to be determined by the contractor and approved by City Manager.
(Ord. 407, passed 9-19-83; Am. Ord. 522, passed 3-21-94)

§ 50.17 ENFORCEMENT.

Regulations promulgated in this subchapter shall be enforced by the Department of Public Works or the Police Department.
(Ord. 373, passed 11-19-79; Am. Ord. 522, passed 3-21-94)

§ 50.18 HOURS OF OPERATION OF CITIZEN COLLECTION STATION.

The hours and days of operation for the citizen collection station shall be governed by the City Manager and can be altered at his or her discretion.
(Ord. 378, passed 10-20-80; Am. Ord. 522, passed 3-21-94; Am. Ord. 678, passed 7-19-04; Am. Ord. 737, passed 9-12-07; Am. Ord. 792, passed 11-15-10)

§ 50.19 FEE REQUIRED FOR DUMPING.

(A) (1) The rates for dumping garbage at the citizen collection station set by the Board of Commissioners shall be as follows:

(2) No one load will be accepted that exceeds five cubic yards (see definition of "citizen collection station" in § 50.01).

(3) All garbage will be priced by weight.

(4) Pricing is based on $40 per ton or $2 per 100 pounds with an $8 minimum.

(B) Nothing will be allowed in the citizen collection station that violates state law (oil, oil cans, oil filters, liquid, hazardous waste, truck or tractor tires, batteries, and the like).

(C) The citizen collection station cannot accept any appliance that contains freon.

(D) Wood products will be separated from all other garbage. Wood products such as brush, shrubs, trees, tree trimmings, and cuttings will be separated from other wood products that contain nails or any metal products (such as straps, clips, bands, and the like).

(E) Local industry and commercial over five cubic yards must make their own arrangements for disposing of their trash at another location.
(Ord. 378, passed 10-20-80; Am. Ord. 470, passed 8-13-90; Am. Ord 481, passed 8-19-91; Am. Ord. 494, passed 8-17-92; Am. Ord. 514, passed 9-20-93; Am. Ord. 522, passed 3-21-94; Am. Ord. 866, passed 10-20-14) Penalty, see § 50.99

§ 50.20 GATE ATTENDANT; AUTHORITY.

(A) It shall be unlawful for any individual, person, firm, corporation, or association to dispose of any materials mentioned in § 50.19 without the instruction of the gate attendant. The gate attendant, under direction of the City Manager of the citizen collection station, shall have authority to direct dumping in given areas.

(B) He shall have the authority to file charges on any person who shall refuse to pay the fee; refuse to dump in designated areas; scatter trash and debris; or set fires.
(Ord. 378, passed 10-20-80; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.21 PERMISSION REQUIRED FOR REMOVAL OF ARTICLES.

It shall be unlawful for any individual, person, firm, corporation, or association to remove any articles or items from the municipal citizen collection station without the prior permission of the City Manager, or the attendant on duty employed by the city at such citizen collection station.
(Ord. 378, passed 10-20-80; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.22 SCAVENGING.

It shall be unlawful for any individual, person, firm, corporation, or association to scavenge or perform any acts of junking on the premises of the city collection station.
(Ord. 378, passed 10-20-80; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

(D) Wood products will be separated from all other garbage. Wood products such as brush, shrubs, trees, tree trimmings, and cuttings will be separated from other wood products that contain nails or any metal products (such as straps, clips, bands, and the like).

(E) Local industry and commercial over five cubic yards must make their own arrangements for disposing of their trash at another location.
(Ord. 378, passed 10-20-80; Am. Ord. 470, passed 8-13-90; Am. Ord 481, passed 8-19-91; Am. Ord. 494, passed 8-17-92; Am. Ord. 514, passed 9-20-93; Am. Ord. 522, passed 3-21-94) Penalty, see § 50.99

§ 50.23 RESTRICTIONS.

The facility will be for city residents only and will not accept any refuse from another person, firm, corporation, or association which is located within another municipality.
(Ord. 522, passed 3-21-94)

§ 50.99 PENALTY.

Any person, firm or corporation who shall violate any of the provision of this chapter for which no other penalty is set forth shall be guilty of a misdemeanor and upon conviction in the Municipal Court, shall be punished by a fine not less than $150 and not more than $500. Each day of violation shall be deemed a separate offense.
(Ord. 356, passed 5-22-78; Am. Ord. 507, passed 6-21-93; Am. Ord. 522, passed 3-21-94)

CHAPTER 51: NATURAL GAS

Section

51.01 General service rate for sales of natural gas to residential and commercial consumers

§ 51.01 GENERAL SERVICE RATE FOR SALES OF NATURAL GAS TO RESIDENTIAL AND COMMERCIAL CONSUMERS.

(A) The maximum general service rate for sales of natural gas rendered to residential and commercial consumers within the city limits, by the Lone Star Gas Company, a division of Enserch Corporation, a Texas Corporation, its successors and assigns, is hereby fixed and determined as set forth in division (H)(1) of this section.

(B) The residential and commercial rates set forth above shall be adjusted upward or downward from a base of $4.0200 per Mcf by a gas cost adjustment factor expressed as an amount per 1000 cubic feet (Mcf) of natural gas for changes in the intracompany city gate rate charge as authorized by the State Railroad Commission or other regulatory body having jurisdiction for gas delivered to the city distribution system, according to division (H)(2) of this section.

(C) The residential and commercial rates set forth above shall be adjusted upward or downward for changes in taxes and other governmental impositions, rental fees or charges according to division (G)(4) of this section.

(D) The company shall also receive weather normalization adjustments according to division (H)(3) of this section.

(E) In addition to the aforesaid rates, the company shall have the right to collect such reasonable charges as are necessary to conduct its business and to carry out its reasonable rules and regulations in effect. The charges set forth in divisions (H)(5) and (6) of this section are approved. Services for which no charge is set out may be performed and charged for by the company at a level established by the normal forces of competition.

(F) In addition to the aforesaid rates, the Company is authorized to recover the current and any unrecovered prior rate case expense through a surcharge designed for a six-month nominal recovery period. The surcharge per Mcf will be calculated by dividing the rate case expense to be recovered by one-half of the adjusted annual sales volume to residential and commercial customers. The Company will provide monthly status reports to the city to account for the collection of rate case expense.

(G) The rates set forth in this section may be changed and amended by either the city or the company in the manner provided by law. Service hereunder is subject to the orders of regulatory bodies having jurisdiction, and to the company's rules and regulations currently on file in the company's office.

(H) Lone Star Gas Company tariffs and schedules.

(1) Item A. Rates.

(a) Subject to applicable adjustments, the following rates are the maximum applicable to residential and commercial consumers per meter per month or for any part of a month for which gas service is available at the same location.

1. Residential:

Customer charge	$7.0000
All consumption @	4.9700 per Mcf

If the service period is less than 28 days in a month the customer charge is $.2857 times the number of days service. If the consumption contains a portion of an Mcf, a pro rata portion of the per Mcf charge will be made.

2. Commercial:

Customer charge	$12.0000
First 20 Mcf @	5.2700 per Mcf
Next 30 Mcf @	4.9700 per Mcf
Over 50 Mcf @	4.8200

If the service period is less than 28 days in a month the customer charge is $.5000 times the number of days service. If the consumption contains a portion of an Mcf, a pro rata portion of the per Mcf charge will be made.

(b) Bills are due and payable when rendered and must be paid within ten days from the monthly billing date.

(c) Residential off-peak sales discount: An off-peak sale discount of $.25 per Mcf will apply to residential customer's volume purchased in excess of 8 Mcf for each billing months May through October.

(2) Item B. Gas cost adjustment.

(a) Each monthly bill at the above rates shall be adjusted for gas cost as follows:

1. The city gate rate increase or decrease applicable to current billing month residential and commercial sales shall be estimated to the nearest $0.0001 per Mcf based upon:

a. The city gate rate estimated to be applicable to volumes purchased during the current calendar month, expressed to the nearest $0.0001 per Mcf (shown below as "Re") less

b. The base city gate rate of $4.0200 per Mcf, multiplied by

c. A volume factor of 1.0204 determined in establishing the above rates for the distribution system as the ratio of adjusted purchased volumes divided by adjusted sales volumes.

2. Correction of the estimated adjustment determined by division (H)(2)(a)1. of this section shall be included as part of the adjustment. The correcting factor (shown below as division (H)(2)(a)1.b. of this section) shall be expressed to the nearest $0.0001 per Mcf based upon:

a. The corrected adjustment amount based upon the actual city gate rate, less

b. The estimated adjustment amount billed under division (H)(2)(a)1. of this section, divided by

c. Distribution system residential and commercial sales Mcf recorded on the company's books during the prior year for the month that the correction is included as part of the adjustment.

3. The adjustment determined by division (H)(2)(a)1. and 2. of this section shall be multiplied by a tax factor of 1.05232 to include street and alley rental and state occupation tax due to the change in the company revenues under this gas cost adjustment provision.

(b) In summary, the gas cost adjustment (GCA) shall be determined to the nearest $0.0001 per Mcf by division (H)(2)(a)1. through 3. of this section as follows:

GCA = [division (H)(2)(a)1. + division (H)(2)(a)2.] × division (H)(2)(a)3. of this section.

GCA = [(1.0204) (Re - $4.0200) + C] × 1.05232

(3) Item C.

(a) Weather normalization adjustment. Effective with bills rendered during the October 1995 through May 1996 billing months, and annually thereafter for the October through May billing months, the above residential and commercial consumption rates for gas service, as adjusted, shall be subject to a weather normalization adjustment each billing cycle to reflect the impact of variations in the actual heating degree days during the period included in the billing cycle from the normal level of heating degree days during the period included in the billing cycle. The weather normalization adjustment will be implemented on a per Mcf basis and will be applicable to the heating load of each customer during the period included in the billing cycle. It will be determined separately for residential and commercial customers based on heating degree data recorded by the Wichita Falls

weather station. The adjustment to be made for each billing cycle will be calculated according to the following formula:

$$WNA = \frac{NDD - ADD}{ADD} \times M \times AHL$$

Where:
WNA = Weather normalization adjustment
NDD = Normal heating degree days during the period covered by the billing cycle
ADD = Actual heating degree days during the period covered by the billing cycle
M = Weighted average margin per Mcf included in the commodity portion of the rates effective during the October through May billing months
AHL = Actual heating load per customer

(b) The heating load to which the weather normalization adjustment is to be applied for residential customers is determined by subtracting the residential class base load from the total volume being billed to the customer. The heating load to which the weather normalization adjustment is to be applied for commercial customers is determined by subtracting the base load for the customer from the total volume being billed to the customer. The base load of a customer is the average level of nonheating consumption.

(c) The weather normalization adjustment is subject to a 50% limitation factor based on temperatures being 50% warmer or colder than normal. The weather normalization adjustment will be calculated to the nearest $.0001 per Mcf.

(4) Item D. Tax adjustment. The tax adjustment shall be an amount equivalent to the proportionate part of any new tax, or any tax increase or decrease, or any increase or decrease of any other governmental imposition, rental, fee or charge (except state, county, city and special district ad valorem taxes and taxes on net income) levied, assessed, or imposed subsequent to July 1, 1993, upon or allocable to the company's distribution operations, by any new or amended law, ordinance, or contract.

(5) Item E. Schedule of service charges.

(a) Inauguration of service. In addition to the charges and rates set out above, the company shall charge and collect the sum of:

Schedule	Charge
8:00 a.m. to 5:00 p.m. Monday through Friday	$27.50
5:00 p.m. to 8:00 a.m. Monday through Friday	41.25
Saturdays, Sundays, and holidays	41.25

For each reconnection of gas service, where service has been discontinued at the same premises for any reason, and for each new inauguration of service when the billable party has changed, with the following exceptions:

1. For a builder who uses gas temporarily during construction or for display purposes;

2. For the first occupant of the premises;

3. Whenever gas service has been temporarily interrupted because of system outage, service work or appliance installation done by the company; or

4. For any reason deemed necessary for company operations.

(b) Returned check charges. A returned check handling charge of $13.75 is made for each check returned to the company for reasons of nonsufficient funds, account closed, payment withheld, invalid signature, or improper preparation.

(c) Collection charge. A charge of $7 shall be made for each instance when it is necessary for a company employee to go to a customer's residence or place of business in order to collect amounts owed the company for gas service previously rendered. This charge shall not apply if service is terminated at the time of the collection action. This charge shall apply to only one trip on the same amount owed.

(5) Item E. Main line extension rate. The charge for extending mains beyond the free limit established by franchise, or any free limit established by franchise, for bona fide residential customer shall be the lesser of: the system-wide average cost of construction, including all overheads, for the prior fiscal year; or the adjusted actual cost as determined by applying the latest Handy-Whitman Index to the 1975 actual base cost of $2.94. A bona fide residential customer uses gas for heating and water heating, or the equivalent load thereof, at a minimum. Residential customers other than bona fide residential customers shall pay actual cost for main line extensions beyond the free limit. The company shall file the calculation of such charge with the city as soon as sufficient data is available each fiscal year. Extension to commercial and industrial customers shall be based on actual cost per foot.
(Ord. 417, passed 6-17-85; Am. Ord. 456, passed 2-20-89; Am. Ord.523, passed 8-22-94)

CHAPTER 52: SEWERS

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GENERAL PROVISIONS

§ 52.01 POLICY, PURPOSES, AND APPLICABLE REGULATIONS.

(A) This chapter provides for prohibitions on discharges of certain substances into the POTW of the city from all sources, domestic, commercial, or industrial. A further purpose of this chapter is to set forth uniform requirements for industrial dischargers into the POTW and to enable the Control Authority to protect the public health in conformity with all applicable state and federal laws relating thereto.

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the POTW which will interfere with the normal operation of the POTW or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system; and

(3) To improve the opportunity to recycle or reclaim the wastewater and to dispose of, recycle, or reclaim the sludge generated by the POTW.

(C) The regulation of discharges into the POTW under this chapter shall be accomplished through the issuance of permits, as specified herein, and by monitoring and inspection of facilities, according to this chapter.

(D) Parts of this chapter are enacted pursuant to regulations established by the U.S. Environmental Protection Agency (EPA). All categorical pretreatment standards, list of toxic pollutants, industrial categories, and other standards and categories which have been promulgated by the EPA are incorporated as a part of this chapter, as are EPA regulations regarding sewage pretreatment established pursuant to the Clean Water Act. The city shall maintain current standards and regulations which shall be available for inspection and copying.

(E) The city shall have the authority to promulgate such administrative regulations as are from time to time necessary for the implementation and enforcement of this chapter. Public notice of any such proposed regulations shall be published in a newspaper of general circulation in the city at least 14 days prior to promulgation. After such notice, the city shall give interested persons an opportunity to submit written data, views or arguments, with or without opportunity for oral presentation. After consideration of the relevant matter presented, in conjunction with any regulation adopted, the city shall

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prepare a concise general statement of the basis and purpose of the regulation.
(Ord. 338A, passed 5-5-92)

§ 52.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ACT." The Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

"BOD." The quantity of oxygen, expressed in parts per million by weight (milligrams per liter), utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees Celsius. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."

"BUILDING DRAIN." That part of the lowest horizontal piping of a drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building three (3) feet outside the inner face of the building wall.

"BUILDING SEWER." The extension from the building drain to the public sewer or other place of disposal.

"CATEGORICAL PRETREATMENT STANDARD OR PRETREATMENT STANDARD." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Dischargers. (Located in 40 CFR Chapter I, Chapter N.)

"CITY." The City or City Council of Burkburnett, Texas, or any authorized person acting in its behalf.

"CONTROL AUTHORITY." The department designated by the city to supervise the operation of its publicly owned treatment works and that is charged with certain duties and responsibilities by this chapter, or any duly authorized representative of that designated department.

"COOLING WATER." The water discharged from any system of condensation such as air conditioning, cooling, refrigeration or water used as a coolant in cooling towers where the only pollutant is thermal.

"DISCHARGE." The introduction or addition of any waste, wastewater, or other substance into the POTW.

"DISCHARGER." Any person who discharges or introduces anything other than normal domestic sewage into the POTW. The term includes owners and/or occupants of the premises connected to and discharging waste or wastewater into the POTW.

"DOMESTIC SEWAGE." Water-borne wastes normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, free from storm and surface waters and industrial wastes.

"ENVIRONMENTAL PROTECTION AGENCY" or "EPA." The United States Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator of EPA or other duly authorized official of EPA.

"GARBAGE." Solid wastes and residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

"GREASE." Fatty acids, soaps, fats, waxes, petroleum products, oil, and any other material which is extractable by hexane or freon solvent from an acidified sample, and which is not volatilized during evaporation of the solvent.

"GREASE TRAP." A device by which the grease content of sewage may be cooled and congealed so that it may be skimmed from the surface.

"INDIRECT DISCHARGE." The discharge or the introduction of Industrial Waste into a POTW.

"INDUSTRIAL DISCHARGER." Any person who discharges or introduces an Industrial Waste into a POTW.

"INDUSTRIAL WASTE." Water-borne solids, liquids, or gaseous wastes resulting from and discharged, permitted to flow, or escaping from any industrial, manufacturing, or food-processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic sewage. (The term is generally synonymous with "nondomestic waste.")

"INTERFERENCE." A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (Including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D or the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

"LIQUID WASTE HAULER." Any person who transports wastewater beyond the site of origin within the city.

"mg/1." Milligrams per liter.

"NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT." A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342) which regulates discharges to "Waters of the State."

"NATURAL OUTLET." Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

"NORMAL DOMESTIC SEWAGE." Domestic sewage in which the average concentration of suspended solids and five-day BOD are at two hundred (200) parts per million (milligrams per liter) each, or lower.

"OWNER" or "OCCUPANT." Any person using the lot, parcel of land, building, or premises connected to and discharging sewage into the POTW, and who pays, or is legally responsible for the payment of, water rates or charges made against the said lot, parcel of land, building or premises, if connected to the water distribution system of the city, or who would pay or be legally responsible for such payment if so connected.

"PARTS PER MILLION." A weight-to-weight ratio also expressed as milligrams per liter; the parts per million value, multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

"PASS THROUGH." The discharge of pollutants through the POTW into Waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirements of the POTW's NPDES or TWC permit or any discharge permit issued by the State.

"PERMIT" or "DISCHARGE PERMIT." A wastewater discharge permit issued to a Significant Industrial Discharger to allow a discharge into the POTW.

"PERSON." Any person, natural or artificial, including any individual, firm, company, partnership, trust, estate, municipal or private corporation, association, governmental agency or other entity, or their representatives, agents, servants or employees.

"pH." The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution. It shall be determined by one of the procedures outlined in "Standard Methods."

"POTW TREATMENT PLANT." That portion of the POTW designed to provide treatment to wastewater.

"PRETREATMENT" or "TREATMENT." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Section 403.6(d).

"PRETREATMENT REQUIREMENT." Any substantive or procedural requirements related to pretreatment imposed on a discharger by this chapter, by state statute or regulation, or by a Categorical Pretreatment Standard.

"PROPERLY SHREDDED GARBAGE." Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the sewer, with no particle greater than one-half inch in any dimension.

"PUBLIC SEWER." A sewer in which all owners of abutting properties have equal rights and interest, and which is controlled by public authority.

"PUBLICLY-OWNED TREATMENT WORKS (POTW)." A treatment works, as defined by Section 212 of the Act, which is owned by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any collection and treatment system from persons outside the city who are, by contract or agreement with the city, users of the city's sewage collection and treatment system. This definition also includes any public sludge disposal sites or public sludge handling or treatment structures or equipment.

"SEWAGE." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, institutions, and/or industrial facilities, together with such ground, surface, and storm water as may be present, whether treated or untreated, which is discharged or permitted to enter the POTW.

"SEWAGE SERVICE CHARGE." The charge made on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative or normal domestic sewage.

"SEWER" or "SANITARY SEWER." A pipe or conduit for conveying sewage, and into which storm, surface, and ground waters are not intentionally admitted.

"SHALL" is mandatory. "MAY" is permissive.

"SIGNIFICANT INDUSTRIAL DISCHARGER." Any industrial discharger who has an average discharge flow into the POTW or 25,000 gallons or more per work day; or has an average daily (work day) discharge flow greater than 5 percent of the average daily flow into the POTW Treatment Plant serving the Discharger; or has in its wastes toxic pollutants defined pursuant to Section 307 of the Federal Water Pollution Control Act, and as defined by the Texas Statutes and Rules; or is subject to Categorical Pretreatment Standards; or is found by the city, the Texas Water Commission, or the U.S. Environmental Protection Agency to have caused interference or otherwise" to have significant impact, either singly or in combination with other contributing industries, on the POTW, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW. This definition includes any hauler of wastewater who discharges into the POTW and who falls within any of the criteria specified in this definition.

"SLUGLOAD." Any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

"STANDARD INDUSTRIAL CLASSIFICATION (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

"STANDARD METHODS." The examination and analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation.

"STATE." State of Texas, including the Texas Water Commission (TWC) or any duly-authorized agency thereof having jurisdiction over waters of the state, sewage collection or treatment, or municipal sewage sludge disposal.

"STORM SEWER" or "STORM DRAIN." A pipe or conduit for conveying storm and surface waters and drainage, and from which domestic sewage and industrial waste is excluded.

"STORM WATER." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

"SURCHARGE." The charge, in addition to the sewage service charge, which is made on those persons whose wastes are greater in strength than the concentration values established as representative of normal domestic sewage.

"SUSPENDED SOLIDS." Solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtration. Quantitative determination of suspended solids shall be expressed in parts per million by weight (milligrams per liter) and made in accordance with procedures set forth in "Standard Methods."

"TOXIC POLLUTANT." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of the Clean Water Act, Section 307(a), or other legislation.

"UPSET." Any exceptional incident in which a discharger unintentionally and temporarily fails to comply with the standards established in this chapter or with the discharger's permit, due to factors beyond the reasonable control of the discharger, excluding noncompliance with the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

"WASTEWATER." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and/or institutions, together with such ground, surface, and storm water as may be present, whether treated or untreated, which is discharged, treated, stored, and/or disposed of.

"WATER OF THE STATE." The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the stormwater, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the State.

"WATERCOURSE." A channel in which a flow of water occurs, either continuously or intermittently.

"WORK DAY." When used in conjunction with the determination of a Significant Industrial Discharger, the terms mean any day, or portions thereof, when the discharger is providing any service or producing its product or any part of its product line, or otherwise generating nondomestic wastewaters that may be discharged to the POTW. All other use of this term shall mean any day a nondomestic wastewater discharge occurs.
(Ord. 338A, passed 5-5-92)

§ 52.03 OPENING WATER METER BOX.

It shall be unlawful for any person other than a duly authorized city employee to open a city water meter box, such city water meter box being the closed box which houses the meter measuring the water to each city user and consumer.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.04 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously or willfully break, damage, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

USE OF PUBLIC SEWERS

§ 52.20 ADMISSION OF INDUSTRIAL WASTES INTO THE PUBLIC SEWERS.

(A) Approval required: Review and acceptance of the Control Authority, pursuant to § 52.60, shall be obtained prior to the discharge into the POTW of any wastewaters having:

(1) A five-day, 20° C. biochemical oxygen demand (BOD) greater than 200 parts per million, and/or

(2) Suspended solids containing greater than 200 parts per million.

(B) Pretreatment. The Control Authority may require a discharger to install, at the discharger's expense, preliminary treatment or processing facilities as may be necessary to prevent:

(1) Pass through;

(2) Interference;

(3) A violation of the discharger's categorical pretreatment standards;

(4) Any general or specific discharge prohibition contained in this chapter;

(5) Any adverse effect on the health and safety of personnel maintaining and operating the POTW; and

(6) Any unreasonable adverse effect on the POTW.

(C) Grease, oil and sand interceptors. Grease, oil and sand interceptors shall be provided for the proper handling of liquid wastes containing grease in amounts that might obstruct or otherwise interfere with the operation of the POTW, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwellings. All interceptors shall be of a type and capacity approved by the Control Authority and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense in continuously efficient operation at all times. Owners shall keep complete records of all cleaning and maintenance of interceptors. A record copy of the invoice for any cleaning or maintenance is to be forwarded to the Control Authority within one week of its completion. If necessary, the Control Authority may establish and require specific

interceptor cleaning frequencies for individual owners to be in compliance.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.21 PROHIBITED DISCHARGES.

(A) No person shall discharge or cause to be discharged into the POTW, either directly or indirectly, any waste, wastewater, or other substance which will cause interference with the operation or performance of the POTW.

(B) No person shall discharge or cause to be discharged into the POTW, either directly or indirectly, any of the following described substances, waste, or wastewater:

(1) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case wastewater with a temperature which exceeds 150° F. (65° C.).

(2) Any wastewater containing wax, grease, oil, plastic, or other substance that will solidify or become discernibly viscous at temperatures between 32° to 150° F.

(3) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW, to the operation of the POTW, to the health and safety of personnel maintaining and operating the POTW, or to any other persons or property.

(4) Any solids, floatable, slurries or viscous substances of such character as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the POTW, such as ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime residues, slops, chemical residues, paint residues, or bulk solids.

(5) Any garbage that has not been properly comminuted or shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than 1/2 inch in any dimension.

(6) Any wastewater having a pH lower than 5.5 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(7) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving

waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(8) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(9) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; or any criteria, guidelines, or regulations affecting sludge use of disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(10) Any substance which will cause the POTW to violate its NPDES and/or State discharge permit or receiving water quality standards.

(11) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(12) Any slugload, which shall mean any pollutant, including oxygen demanding pollutants (BOD, ammonia, and the like) released in an extraordinary discharge episode of such volume or pollutant concentration as to cause interference to the POTW. In no case shall a slugload have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.

(13) Any wastewater which causes a hazard to human life or creates a public nuisance.

(14) Any wastewater containing any radioactive waste or isotope of such half-life or concentration as may exceed limits established by the city - in compliance with applicable State and/or Federal regulations.

(15) Any cyanide greater than 0.5 parts per million, as CN.

(16) Any chromium greater than five parts per million as trivalent chromium of 0.5 parts per million as hexavalent chromium.

(17) Any arsenic greater than 0.05 parts per million.

(18) Any copper greater than one part per million.

(19) Any nickel greater than one part per million.

(20) Any cadmium greater than two-hundredths part per million.

(21) Any zinc greater than 0.1 parts per million.

(22) Any phenols greater than 12 parts per million.

(23) Any iron greater than five parts per million.

(24) Any tin greater than one part per million.

(25) Any barium greater than one part per million.

(26) Any boron greater than one part per million.

(27) Any lead greater than 0.1 part per million.

(28) Any manganese greater than one part per million.

(29) Any mercury greater than 0.005 parts per million.

(30) Any selenium greater than 0.02 parts per million.

(31) Any silver greater than 0.02 parts per million.

(32) Any chlorides in concentrations greater than 250 parts per million.

(C) No person shall discharge, or cause to be discharged, any storm water, groundwater, rood runoff, subsurface drainage, downspouts, yard drains, yard fountains, ponds, or lawn sprays into any sanitary sewer. Storm water and all other such unpolluted drainage water shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Control Authority.

(D) No wastewater may be discharged into any storm sewer within the city.

(E) No wastewater may be discharged into any waters of the state within the city, unless expressly authorized by the Texas Water Commission and the EPA.

(F) No person shall discharge, or cause to be discharged into the POTW any wastewater or other wastes containing:

(1) Free or emulsified oil and grease, or combinations thereof, exceeding on analysis an average of 100 parts per million (833 pounds per million gallons) of either or both, if in the opinion of the Control Authority it appears probable that such wastes:

(a) Will deposit grease or oil in the sewer lines in such a manner to clog the sewers;

(b) Will overload skimming and grease-handling equipment;

(c) Will not be amenable to bacterial action and will therefore pass to the receiving water without being affected by normal sewage treatment processes; or

(d) Will have deleterious effect on the treatment process due to the excessive quantities.

(2) Cyanides or cyanogen compounds capable of liberating hydrocyanic gas on acidification in excess of 0.5 parts per million by weight as CN within the sewer system.

(G) If the Control Authority determines that any person is discharging, or causing to be discharged, to the POTW any wastewater, or other substance in violation of the prohibitions in this section, the Control Authority may take enforcement action pursuant to § 52.75. (Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.22 SPECIAL RULES RELATING TO INDUSTRIAL DISCHARGES.

(A) Compliance with standards:

(1) Upon the promulgation of the categorical pretreatment standards for a particular industrial subcategory, the federal Standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter.

(2) State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this chapter or any other applicable ordinance.

(3) No discharger shall increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the Pretreatment Requirements set forth in this chapter.

(4) The Control Authority may impose mass limitations on Dischargers where the imposition of mass limitations is deemed appropriate.

(B) Accidental discharges.

(1) Prevention of accidental discharges. Each discharger shall provide prudent protection from accidental discharge of prohibited materials or other substances regulated by this chapter. 1992 S-4

Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's costs and expense. When applicable, detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Control Authority for review, and shall be approved by the Control Authority before construction of the facility. Each existing discharger as designated by the Control Authority shall complete its plan and submit same to the Control Authority within 60 days after the effective date of this chapter. No designated discharger proposing to connect or contribute any wastewater to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the control authority. Review and approval of such plans and operating procedures by the control authority shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

(2) Notice of accidental discharges or "slugloads":

(a) Dischargers shall notify the Control Authority orally as soon as practicable but not later than within 24 hours following the occurrence of a "slugload" or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions.

(b) A written report shall also be provided within five days of the occurrence. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and time, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(c) Notification shall not relieve the discharger of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish fills, or any other damage to person or property; nor shall such notification relieve the discharger of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(3) Liability due to accidental discharges of "slugloads". Any discharger who discharges "slugloads" or prohibited materials shall be liable, pursuant to § 52.78, for any expense, loss, or damage to the POTW caused thereby, in addition to the amount of any fines imposed on the Control Authority on account thereof under State and Federal law.

(4) Instructions to employees. Each employer shall instruct all applicable employees who may cause or discover such a discharge with respect to emergency notification procedures including the proper telephone number and/or extension number of the Control Authority to be notified.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.23 WASTEWATER DISCHARGE PERMITS.

(A) It shall be unlawful for any significant industrial discharger to discharge to the POTW any wastewater without a permit issued by the Control Authority in accordance with the provisions of this chapter.

(B) All significant industrial dischargers proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial dischargers connected to or contributing to the POTW shall obtain a Discharge Permit within 120 days after the effective date of this chapter.

(C) Permit application. All significant industrial dischargers shall complete and file with the control authority an application in the form prescribed by the Control Authority. Existing significant industrial dischargers shall apply for a discharge permit within 60 days after the effective date of this chapter, and proposed new significant industrial dischargers shall apply at least 60 days prior to connecting to or contributing to the POTW. No significant industrial discharger shall be permitted to discharge if it fails to submit a completed discharge permit application within the specified time. In support of the application, the discharger shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address, and location (if different from the address);

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(3) Wastewater constituents and characteristics including but not limited to those mentioned in § 52.20 and § 52.21 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance With procedures established by the EPA pursuant to Section 304(9) of the Act and contained in 40 CFR, Part 136, as amended;

(4) Time and duration of contribution;

(5) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly and seasonal variations if any;

(6) Site plans, floor plans, plumbing plans and details to show all sewers, floor drains, sewer connections, and appurtenances by size, location, and elevation;

(7) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW;

(8) Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by any city, state, or federal pretreatment requirements, and a statement regarding whether or not the pretreatment requirements are being met on a consistent basis and if not, whether additional Operation and Maintenance (O & M) and/or additional pretreatment is requirement for the discharger to meet applicable Pretreatment Requirements;

(9) If additional pretreatment and/or O & M will be required to meet the pretreatment requirements; the shortest time schedule by which the discharger will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment requirement. The following conditions shall apply to this schedule:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to meet the applicable pretreatment requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and the like).

(b) No increment referred to in division (C)(9)(a) shall exceed nine months, nor shall the total compliance period exceed 18 months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the discharger shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the schedule established. In no event shall more than nine months and 14 days elapse between such progress reports to the Control Authority.

(10) Any other information as may be deemed by the Control Authority to be necessary to evaluate the permit application.

(D) Action on the permit application. The Control Authority will evaluate the completed application and data furnished by the discharger and may require additional information within 60 days. After evaluation of the completed application and acceptance of the data

furnished, the Control Authority shall issue or deny a discharge permit. If the permit is issued, it shall be subject to terms and conditions provided herein. If the application is denied, the applicant shall be notified in writing within 30 days or the reasons for such denial. If denial is based on the Control Authority's determination that the applicant cannot meet the pretreatment requirements specified in this chapter, the Control Authority may specify that additional pretreatment operations will be required of the applicant in compliance with division (C)(9) of this section.

(E) Permit conditions. Wastewater discharge permits shall be subject to all provisions of this chapter and all other applicable regulations, industrial waste surcharges, and fees established by the city. Permits may contain, but shall not be limited to, the following:

(1) Limits on the average and maximum wastewater constituents and characteristics;

(2) Limits on average and maximum rate and time of discharge and/or requirements for flow regulation and equalization;

(3) Development and implementation of accidental discharge prevention and control plans pursuant to § 52.22(B)(1);

(4) The unit charge or schedule or user charges and fees for the management of the wastewater discharged to the POTW;

(5) Requirements for installation and maintenance of inspection and sampling facilities;

(6) Location of approved discharge points;

(7) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, laboratory analysis method, and reporting schedule;

(8) Compliance schedules;

(9) Requirements for submission of special technical reports or discharge reports differing from those prescribed by this chapter;

(10) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Control Authority, and affording Control Authority access thereto;

(11) Requirements for notification of the Control Authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW;

(12) Requirements for notification of excessive, accidental, or slug discharges pursuant to § 52.22(B)(2);

(13) The duration of the permit, which shall not extend beyond the expiration date of the city's NPDES permit;

(14) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this chapter.

(F) Permit modifications.

(1) The Control Authority may modify the permit for good cause including, but not limited to, the following:

(a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

(b) Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit;

(c) A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge in order to implement the prohibitions in § 52.24 or in order to avoid any other violation of this chapter;

(d) Information indicating that the permitted discharge poses a threat to the Control Authority's collection and treatment systems, POTW personnel, or the receiving waters;

(e) Violation of any terms or conditions of the permit;

(f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;

(g) Revision of or a grant of variance from federal categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the permit;

(i) To reflect transfer of the facility ownership and/or operation to a new owner/operator;

(j) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

(2) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(3) (a) Any request by the permittee for a modification of its permit shall be in writing and shall be accompanied by all relevant data, documentation, explanations, and other pertinent information. The Control Authority shall provide personal notice to the permittee, and published notice if public interest is affected, of any proposed permit modification at least 14 days prior to decision on the proposed modification.

(b) The Control Authority shall provide the permittee and any requesting interested persons with notice of the final modification decision.

(c) Appeal of permit modification decisions may be taken pursuant to the procedures specified for permit appeals in division (G)(2) of this section.

(G) Permit issuance and appeal procedures.

(1) Public notification. The Control Authority shall provide personal notice to the permittee, and published notice in a newspaper of general circulation in the city, of intent to issue a discharge permit, at least 30 days prior to issuance. The notice shall indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

(2) Permit appeals. The Control Authority shall provide all requesting interested persons with notice of final permit decisions. Upon notice by the Control Authority, any person, including the industrial user, may petition for reconsideration of the terms of the permit within 30 days of the notice.

(a) In its petition, the appealing party must indicate any permit provision objected to, the reason for the objection, and the alternative condition, if any, it seeks to be placed in the permit.

(b) The effectiveness of the permit shall not be stayed pending a reconsideration by the Control Authority unless the Control Authority expressly so indicates.

(c) The Control Authority shall respond in writing to any petition for reconsideration within 30 days.

(d) In its response, the Control Authority shall indicate its decision whether to affirm, vacate, of modify the terms of permit issued.

(e) The Control Authority's action upon any petition for reconsideration shall be considered final for purposes of any judicial review.

(H) Permit transfer. Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Control Authority.

(1) The permittee must give at least 30 days advance notice to the Control Authority.

(2) The notice must include a written certification by the new owner which:

(a) States that the new owner has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing permit.

(I) Permit termination. Pretreatment permits may be terminated pursuant to § 52.75 for the following reasons:

(1) Falsifying self-monitoring reports;

(2) Tampering with monitoring equipment;

(3) Refusing to allow timely access to the facility premises and records;

(4) Failure to meet pretreatment requirements;

(5) Failure to pay penalties imposed pursuant to § 52.99.

(6) Failure to pay sewer charges; or

(7) Failure to meet compliance schedules.

(J) Permit reissuance. The discharger shall apply for permit reissuance by submitting a complete permit application a minimum of 90 days prior to the expiration of the discharger's existing permit.

(K) Continuation of expired permits. An expired permit will continue to be effective and enforceable until the permit is reissued if:

(1) The discharger has submitted a complete permit application at least 90 days prior to the expiration date of the discharger's existing permit; and

(2) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the discharger.

(1) Petition for relief from permitting requirement. Any discharger under a permit issued pursuant to this section may petition the Control Authority to find that:

(1) The discharger no longer meets any of the criteria to be a "Significant Industrial Discharger" as defined in § 52.02;

(2) The discharger has not met any of those criteria for the immediately preceding three years; and

(3) Therefore, the permitting requirements of § 52.23 should no longer apply to the discharger.

(a) The petitioning discharger shall produce all information relevant to the requested findings.

(b) The Control Authority shall afford reasonable opportunity for a hearing on any relevant factual issues upon request of the petitioning discharger.

(c) If the Control Authority finds that the discharger does not meet any of the criteria to be a Significant Industrial Discharger as defined in § 52.02 and that the discharger has not met any of those criteria for the immediately preceding three years, the Control Authority shall cancel any existing permit issued to the discharger, and the discharger shall be relieved of any further obligation to comply therewith.

(d) No such permit cancellation shall affect any later determination that a discharger subsequently meets the criteria for a significant industrial discharger.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.24 LIQUID WASTE HAULER PERMITS.

(A) No person shall drain, flush, or clean out any tanks or basins containing chemical liquid wastes, septic tank wastes, oil and grease trap wastes, or any other type of domestic or non-domestic liquid wastes within the city unless such person is issued a permit by the Control Authority, authorizing such acts or services. Such permit shall also be required of all persons disposing of such waste within the city, regardless of point of origin.

(B) No such liquid waste hauler shall discharge of wastewater or any other waste into the POTW in violation of the standards, limitations, and other requirements specified in this chapter.

(C) Any disposal site within the city, and any method of disposal, must be approved by the Control Authority. Copies of trip tickets shall be maintained and made available for inspection at any reasonable time.

(D) Any liquid waste hauler who is a significant industrial discharger shall also obtain a discharge permit pursuant to § 52.23.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

MONITORING; INSPECTIONS; REPORTS

§ 52.40 MONITORING FACILITIES.

(A) Unless expressly exempted by the Control Authority, all significant industrial dischargers shall provide, at their own expense, monitoring facilities prior to approval of a permit application, to allow inspection, sampling and flow measurement at each discharge point. Each monitoring facility shall be located on the discharger's premises; except, in the case where such location would be impractical or cause undue hardship to the discharger, the Control Authority may approve the placement of monitoring facilities in the public street or sidewalk area. All monitoring equipment and facilities shall be maintained in safe and proper operating condition at the expense of the discharger.

(B) Failure to provide proper monitoring facilities shall be grounds for denial of a permit application.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.41 INSPECTIONS AND SAMPLING.

(A) The Control Authority may inspect the facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the Control Authority or its representatives to enter upon the premises of the discharger at all reasonable times, for the purposes of inspection, sampling, or examination of records. Any employee, agent, or other representative of the Control Authority who enters private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. The Control Authority shall have the right to set up on the discharger's property such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring, metering and/or measuring operations.

(B) Any discharges of wastewater or other waste into the POTW shall be subject to inspection and/or sampling as often as may be deemed necessary by the Control Authority. Samples shall be collected in such manner as to be representative of the character and concentration of the wastewater or waste under operating conditions. The Control Authority shall provide the Discharger with a split set of all discharge samples taken. The laboratory methods used in the examination of said waste shall be Standard Methods and/or those set forth in 40 CFR, Part 136. Regular inspections and/or sampling shall be conducted at such times and on such schedules as may be established by the Control Authority. Should a discharger desire that a scheduled inspection and/or sampling be conducted at some time other than that scheduled by the Control Authority, such inspection and/or sampling may be conducted by the Control Authority at the expense of the discharger.

(C) Unscheduled inspections may be conducted whenever deemed by the Control Authority to be reasonably necessary to ensure that the terms of this chapter are complied with.

(D) The failure or refusal of a discharger to allow the access required by this section shall be grounds for the disconnection of water and/or sewer service to the discharger's facility, pursuant to the provisions of this chapter applicable to enforcement and/or termination of service.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.42 DETERMINATION OF FLOW.

(A) The water consumption during the previous month, as determined from the meter records of the city water department, shall be the basis for computing the sewage flow from any discharger, unless actual sewage flow is measured by a recording meter of a type approved by the Control Authority. The discharger shall install and maintain such recording meter in proper condition to accurately measure such flow. Upon failure to do so, the water consumption shall be the basis for computing the sewage flow.

(B) When water is contained in a product or is evaporated or is discharged as unpolluted wastewater in an uncontaminated condition to surface drainage (in compliance with this chapter and all state and federal law), an application may be made for a reduction in the computed volume of waste discharged to the POTW, provided supporting data satisfactory to the Control Authority is furnished. Such data shall include a flow diagram and other indication of the destination of water supply and/or wastewater, supported by data from meters installed on such process piping at the expense of the discharger.

(C) Any discharger who procures any part or all of his water supply from a source or sources other than the city, any of which is discharged into the POTW, shall install and maintain at his expense an effluent meter and/or other flow measuring device of a type approved by the Control Authority for the purpose of determining the proper volume of flow to be used in computing sewer flow. Such meters or measuring devices shall be read monthly.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.43 REPORTING REQUIREMENTS FOR SIGNIFICANT DISCHARGERS/PERMITTEES.

(A) Baseline report. Within 90 days following the effective date for any applicable categorical pretreatment standard or prior to commencement of the introduction of wastewater into the POTW by a new significant industrial discharger, any significant industrial discharger subject to a categorical pretreatment standard shall submit to the Control Authority a report, indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report from existing significant industrial dischargers shall state whether the applicable categorical pretreatment standards and pretreatment requirements are being met on a consistent basis, and if

not, what additional O & M and/or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards and pretreatment requirements. This statement shall be signed by an authorized representative of the discharger, and certified by a qualified professional.

(B) Compliance date report. Within 90 days following the date for final compliance by a significant industrial discharger with an applicable categorical pretreatment standard, or 90 days following commencement of the introduction of wastewater into the POTW by a new significant industrial discharger, any significant industrial discharger subject to a categorical pretreatment standard shall submit to the Control Authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards and requirements. This statement shall be signed by an authorized representative of the discharger, and certified to by a qualified professional.

(C) Periodic compliance reports. Any significant industrial discharger subject to a categorical pretreatment standard or requested by the control authority shall submit to the control authority, during the months of June and December of each year, a report indicating the nature and concentration of prohibited and regulated substances in the effluent which are limited by the pretreatment standards or requirements. In addition, this report shall include a record of all measured or estimated average and maximum daily flows which, during the reporting period, exceeded the average daily flow specified in the discharger's permit. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the Control Authority may accept reports of average and maximum flows estimated by verifiable techniques. The Control Authority, taking into consideration such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission or said reports on months other than those specified above.

(D) Reports of significant industrial dischargers shall contain all results of sampling and analysis of the discharge, including the flow rate, the nature and concentration of the constituents, or the production and mass of the constituents, where required by the Control Authority. The frequency of monitoring by the discharger shall be as prescribed in the applicable categorical pretreatment standard or in this chapter or more frequently as specified by the Control Authority. Sampling shall be done in accordance with Standard Methods and 40 CFR, Part 136.

(E) The reporting requirements specified in this section as applicable to significant industrial dischargers who are subject to

categorical pretreatment standards shall also apply to any other significant industrial discharger upon whom the Control Authority imposes such reporting requirements.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.44 CONFIDENTIAL INFORMATION.

(A) All information and data submitted by a discharger to the Control Authority may be submitted to the Environmental Protection Agency pursuant to the Clean Water Act and the regulations promulgated by the EPA governing the POTW. Such information shall be considered subject to public disclosure, provided, however, that the discharger may request that information not be subject to public disclosure, in accordance with 40 CFR Part 2, as follows:

(1) A discharger may assert a business confidentiality claim covering part of all of the information, in a manner described below, and that information covered by such a claim will be disclosed only by means of the procedure set forth below.

(2) If no claim of business confidentiality is asserted, all information will be subject to public disclosure without further notice to the discharger.

(B) Method and time of asserting business confidentiality claim. A discharger which is submitting information to the Control Authority may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the Control Authority, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified by the discharger, and may be submitted separately to facilitate identification and handling by the Control Authority. If the discharger desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.

(C) Nothing in this section shall prevent the disclosure of information and data regarding the nature and content of a limitation to be met by discharger, and this information shall be available to the public with no restrictions.
(Ord. 338A, passed 5-5-92)

§ 52.45 PRESERVATION OF RECORDS.

(A) All dischargers subject to this chapter shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by and on behalf of a discharger in connection with its discharge.

(B) All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the Control Authority pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

RATES AND CHARGES

§ 52.60 RATES AND CHARGES.

Users of the City Sewer System shall be subject to the following rates effective October 1, 2017:

(A) Residential User Charges.

(1) Residential user charges shall be calculated from the following formula:

Monthly user charge = Base rate + $2.26 (Average water consumption)

Where: Monthly user charge = the amount in dollars charged for basic residential sewer services.

Base rate = $13.34

Average monthly water consumption = the average monthly water consumption during the months of December, January and February measured in 1,000 gallon units.

(2) Whenever an average monthly water consumption has not yet been established, a minimum charge of $26.31 per month shall be used.

(B) Commercial User Charges.

(1) "COMMERCIAL USER" is hereby defined for the purposes of this section as anyone who uses water for purposes other than domestic use.

(2) Commercial user charges shall be calculated from the following formula:

Monthly user charge = Base rate + $2.57 (Monthly water consumption)

Where: Monthly user charge = the amount in dollars charged for basic commercial sewer services.

Base rate: $13.34

Monthly water consumption = the monthly water consumption measured in 1,000 gallon units.

(3) Commercial user charges shall be calculated from the following: Any commercial user who uses water as an ingredient in the manufacturing process of a product shall not be required to pay a sewer charge based on the water so incorporated into the product. Any such industrial user shall be required to show proof, of the amount of water used as an ingredient in the manufacturing process. The city reserves the right to conduct such tests as it may deem necessary to determine the amount of wastewater placed into the sanitary sewer by such user.

(C) The industrial wastewater surcharge is a reimbursement for costs incurred by the city's wastewater treatment plant and sewer collection system from the treatment of pollutants in excess of normal domestic sewage discharged by industrial uses. Assessment of surcharges does not alleviate the industrial user of the responsibility to comply with pretreatment requirements. Consistent non-compliance by an industrial user will result in enforcement actions as defined by this section.

(1) Surcharges for excess Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) BOD and TSS surcharges shall be calculated as follows:

Formulas: Surcharge for TSS = $S \times (S_1 - S_d) \times 8.34 \times F$
Surcharges for BOD = $B \times (B_1 - B_d) \times 8.34 \times F$

S = unit cost of treating ($/lb)
S_1 = TSS concentration in sample (mg/L)
B = unit cost of treating BOD ($/lb)
B_1 = BOD concentration sample (mg/L)
B_d = BOD plant design criteria for normal domestic sewage
= 200 mg/L (Base value from which the surcharge is calculated)
S_d = TSS plant design criteria for normal domestic sewage
= 200 mg/L (Base value from which the surcharge is calculated)
F = Discharged flow measured in millions of gallons per day (MGD) or millions of gallons (MG)
8.34 = equivalent mass of one gallon of water measured in pounds (8.34 lbs/gal)

(2) Current Unit Cost of Treatment for TSS is $.10 per pound; and $.08 per pounds. These values are based on an annual flow of 478.15 million gallons, 1.533 million pounds BOD, 620 thousand pounds TSS, at an annual O&M cost of $365,885.00.

(3) Annual Adjustment of Unit Costs. The unit costs of treating TSS(S) and BOD(B) shall be adjusted annually to reflect

increases or decreases in wastewater treatment costs based on the previous year's experience as presented in the annual Auditor's Report. In the event that major changes in the industrial base have taken place prior to the annual review, the city may adjust the Unit Cost Rates based on current operational data and expenditures.

(a) The Pretreatment Coordinator shall determine the Unit Cost of treatment of BOD and TSS based on the following criteria:

Total volume of treated wastewater for fiscal year
Total mass of BOD treated for fiscal year
Total mass of TSS treated for fiscal year
Total operation and maintenance expenditures for fiscal year based on auditor's report

(b) The following assumptions shall be used to determine the percentage of operation and maintenance costs associated with treatment of FLOW, BOD and TSS:

FLOW: 50% of O&M expenditures
BOD: 33% of O&M expenditures
TSS: 17% of O&M expenditures

(c) The following formulas shall be applied in determining the unit cost of treatment:

$$B - \frac{33\% \ C}{B_T}$$

$$S - \frac{17\% \ C}{S_T}$$

Where:

B = Unit cost of treatment for BOD measured in dollars per pound ($/lb)
C = Total O&M of BOD expenditures for fiscal year from auditor's report
B_T = Total mass of BOD during fiscal year measured in pounds (lbs)
S = Unit cost of treatment for TSS measured in dollars per pound ($/lb)
S_T = Total mass of TSS treated during fiscal year measured in pounds (lbs)

(d) The calculated Unit Cost Rate shall be rounded to the nearest whole cent. (Example: $0.0785 shall be rounded to $0.08)

(e) The Pretreatment Coordinator shall submit the unit cost rate adjustments to the city and unit cost rates shall become effective 30 days following approval by the city.

(4) Surcharges may be assessed on a daily basis providing the industrial user's wastewater discharge is measured by a totalizing flow meter. BOD and TSS surcharges may be assessed using the

arithmetic monthly average of the daily concentrations for each pollutant respectively and the total flow discharged for the month.

(D) The Pretreatment Coordinator shall prepare surcharge assessments for all industrial users on a monthly basis and shall submit the assessment to the City Water Billing Department. The discharger shall pay monthly in accordance with practices existing for payment of sewer charges.

(E) The city reserves the right to assess surcharges for excess costs of treatment for other pollutants not specified in this section. (Ord. 480, passed 8-19-91; Ord. 338A, passed 5-5-92; Am. Ord. 493, passed 8-17-92; Am. Ord. 511, passed 8-16-93; Am. Ord. 529, passed 11-21-94; Am. Ord. 530, passed 11-21-94; Am. Ord. 660, passed 8-18-03; Am. Ord. 696, passed 5-16-05; Am. Ord. 766, passed 8-17-09; Am. Ord. 801, passed 3-21-11; Am. Ord. 815, passed 9-19-11; Am. Ord. 828, passed 9-17-12; Am. Ord. 863, passed 9-15-14; Am. Ord. 881, passed 6-5-15; Am. Ord. 927, passed 9-18-17) Penalty, see § 52.99

§ 52.61 BILLING.

Industrial waste charges provided for in this chapter shall be included as a separate item on the regular bill for water and sewer charges and shall be paid monthly in accordance with the existing practices. Such charges will be paid at the same time that the water charges of the persons become due. The Control Authority shall specify in each bill the determination of the amount due for all industrial waste charges. Payment for water services shall not be accepted without payment also of sewer service charges.
(Ord. 338A, passed 5-5-92)

§ 52.62 FAILURE TO PAY BILLS.

If a discharger's payment of its monthly bills for water and sewer services, including any industrial waste charges, is more than 60 days overdue, the Control Authority may disconnect all connections to the water and sanitary sewer mains to the city. The same penalties and charges now or hereafter provided for by the ordinances of the city for failure to pay the bill for water service when due shall be applicable in a like manner in case of failure to pay the established charge for waste discharged to the sanitary sewer mains as established in § 52.60. (Ord. 338A, passed 5-5-92)

§ 52.63 COSTS OF ADMINISTERING PROGRAM.

The Control Authority may make such charges, known as monitoring and pretreatment charges, as are reasonable for services rendered in administering the programs outlined in this chapter. Such charges shall be equitable as between users of the POTW system. The Control Authority shall provide, upon request, documentation and justification for all calculations in determining the charges. Such charges may include, but are not limited to, the following:

(A) Permitting industrial facilities;

(B) Inspection;

(C) Sample analysis;

(D) Monitoring;

(E) Enforcement.
(Ord. 338A, passed 5-5-92)

§ 52.64 RIGHT OF REVISION.

The Control Authority reserves the right to amend this chapter to provide for more or less stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section 338A-12 of this chapter.
(Ord. 338A, passed 5-5-92)

§ 52.65 SEWER SERVICE FEE REQUIRED TO BE PAID; REIMBURSEMENT LIMIT.

(A) In 1961 the City Council determined that every resident that has city sewer available will be required to pay the fee for sewer service. Due to discrepancies in how billing was done in 1961 versus how bills are figured presently; to clarify this situation, the City Council decrees if sewer service is available, whether or not the residence is hooked on to sewer, shall pay the same as if they were connected to the city sewer.

(B) It was determined by the City Council in 1961 that it would be the responsibility of the residence for knowing if they are hooked on or not to the city sewer.

(C) If any residence has been paying for sewer service and determines that sewer service was not available to the residence, then the city shall set a two year reimbursement to funds as a limit of repayment.
(Ord. 542, passed 4-15-96)

§ 52.66 EFFLUENT WATER REUSE PROGRAM.

The rates for the effluent water reuse program will be as follows:

Rate type	Rate costs
Non-bulk rate resident	$0.0025 per gallon or $2.50 per thousand gallons
Non-bulk rate non-residents	(A) $0.003 per gallon or $3 per thousand gallons (B) A $25 deposit
Bulk rate raw	(A) $0.00225 per gallon or $2.25 per thousand gallons (B) A $25 deposit

(Ord. 845, passed 10-21-13; Am. Ord. 865, passed 10-20-14)

ADMINISTRATION AND ENFORCEMENT

§ 52.75 ENFORCEMENT.

(A) Authority to implement federal and state law. The Control Authority is hereby provided the authority to implement all federal and state laws and regulations pertaining to the POTW.

(B) Revocation of permit. In accordance with the procedures in this section, the Control Authority may revoke the permit of any discharger which:

(1) Fails to factually report the wastewater constituents and characteristics of its discharge;

(2) Fails to report significant changes in wastewater constituents or characteristics;

(3) Refuses to allow reasonable and timely access to the Discharger's premises by representatives of the Control Authority for the purpose of inspection or fails to meet pretreatment requirements;

(4) Fails to pay penalties imposed pursuant to § 52.99;

(5) Fails to pay bills for sewer services; or

(6) Fails to meet compliance schedules.

(C) Notification of violation; administrative adjustment. Whenever the Control Authority finds that any discharger had violated or is violating this chapter or its discharge permit, the Control

Authority may serve or cause to be served upon such discharger a written notice, either by personal delivery or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within 30 days of the date of the notice, the discharger shall respond in person or in writing to the Control Authority, stating its position with respect to the notice of violation. Thereafter, the parties shall meet to discuss the occurrence of the violation or violations alleged and, where necessary, establish a plan for the satisfactory correction thereof.

(D) Show cause hearing. Where any violation of permit or this chapter is not corrected by means of administrative adjustment as described in division (C) above, the Control Authority may order any violating discharger to show cause, before the Control Authority or its duly authorized representative, why the proposed enforcement action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered, return receipt requested, specifying the time and place of a hearing to be held by the Control Authority or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the authority or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of the discharger. The director of the Control Authority may himself conduct the hearing and take the evidence, or he may designate any employee of the city or any specially-appointed attorney or engineer to:

(1) Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

(2) Take the evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Control Authority for action thereon.

(E) At any hearing held pursuant to this section, testimony taken must be under oath and recorded. Any party is entitled to present his/her case or defense by oral or documentary evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(E) Action following show cause hearing. After the Control Authority has reviewed the evidence, it may issue an order to the discharger responsible for any violation found to have been committed, directing that, following a specified time period, the sewer service be

discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued, including revocation or suspension of any discharge permit.

(F) Right to appeal. Following the entry of the order by the Control Authority with respect to the conduct of a discharger, the discharger may file an appeal in an appropriate court of competent jurisdiction challenging the Control Authority's order.
(Ord. 338A, passed 5-5-92)

§ 52.76 EMERGENCY SUSPENSION OF SERVICE AND/OR DISCHARGE PERMITS.

(A) The Control Authority may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the Control Authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the city to violate any condition of its NPDES Permit. Also, the Control Authority may suspend wastewater treatment service and/or a wastewater discharge permit whenever acids and chemicals damaging the sewer lines or treatment processes are released to the sewer causing rapid deterioration of such structures or interfering with proper treatment of sewage.

(B) Any discharger notified of a suspension of the wastewater treatment service and/or its wastewater discharge permit shall immediately stop or eliminate the offending discharge. In the event of a failure of the discharger to comply voluntarily with the suspension order, the Control Authority shall take such steps as deemed necessary, including immediate disconnection of the discharger's sewer and/or water service connection, to prevent of minimize damage to the POTW system or endangerment to any individuals or the environment.

(C) In the case of emergency disconnection of service, the Control Authority shall make reasonable attempts to notify the discharger or user of the premises where such offending discharge is generated before disconnecting the water or sewer service line. The party whose service has been disconnected shall have an opportunity for a hearing on the issue of the offending discharge and the disconnection as soon as possible after such disconnection has taken place.

(D) The Control Authority shall reinstate the wastewater discharge permit and/or the wastewater treatment and/or water service upon proof of the elimination of the offending discharge. A detailed written statement by the discharger describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Control Authority within 15 days of the date of the occurrence. The city water and/or wastewater service shall be reconnected only at the discharger's expense.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99
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§ 52.77 LEGAL ACTION.

If any person discharges wastewater or other wastes into the city's POTW contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the City Attorney may commence an action for appropriate legal and/or equitable relief in any court of competent jurisdiction.
(Ord. 338A, passed 5-5-92)

§ 52.78 RECOVERY OF COSTS INCURRED BY THE CONTROL AUTHORITY.

Any discharger violating any of the provisions of this chapter or causing damage to or impairing the city's wastewater disposal system, shall be liable to the city for any expense, loss, or damage caused by such violation or discharge. The city shall bill the discharger for the costs incurred by the city for any cleaning, repair, or replacement work caused by the violation or discharge.
(Ord. 338A, passed 5-5-92)

§ 52.79 UPSETS.

(A) Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter shall inform the Control Authority thereof orally as soon as practicable but not later than within 24 hours of first awareness of the commencement of the upset. A written report shall also be filed by the discharger with the Control Authority within five working days. The report shall specify:

(1) Description of the upset, the cause thereof, and the upset's impact on a discharger's compliance status;

(2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur; and

(3) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset or other condition of noncompliance.

(B) The Control Authority may waive the written report on a case-by-case basis if an oral report has been received within 24 hours.

(C) An upset constitutes an affirmative defense to any enforcement action brought by the Control Authority against a discharger for any noncompliance with this chapter occurring during the period of the upset if the discharger demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the discharger can identify the causes of the upset;

(2) The discharging facility was at the time being properly operated;

(3) The discharger submitted the 24-hour notice and written report as required by division (A) of this section; and

(4) The discharger has taken all reasonable steps to minimize or prevent any discharge in violation of its permit or this chapter which had a reasonable likelihood of adversely affecting human health or the environment.

(D) In any enforcement action, any discharger seeking to establish the occurrence of an upset has the burden of proof.
(Ord. 338A, passed 5-5-92) Penalty, see § 52.99

§ 52.80 VARIANCES.

A discharger may apply to the city for a variance from any discharge limitation specified in § 52.21(B). The city may grant such a variance if the discharge limitation does not prevent and is not designed to prevent: pass through; interference; a violation of the discharger's categorical pretreatment standards; any adverse damage to the health and safety of personnel maintaining and operating the POTW; or any exceedance of the criteria for water quality developed by EPA pursuant to section 304 of the Clean Water Act, 33 U.S.C. 1314.
(Ord. 338A, passed 5-5-92)

§ 52.81 REMOVAL CREDITS.

Where applicable, the Control Authority may elect to initiate a program of removal credits as part of this chapter to reflect the POTW's ability to remove pollutants in accordance with 40 CFR Part 403.7.
(Ord. 338A, passed 5-5-92)

§ 52.82 NEW/GROSS CALCULATIONS.

A discharger whose only source of intake water is the city water service may apply to the Control Authority to adjust Categorical Pretreatment Standards and/or Pretreatment Requirements in this chapter to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR Part 403.15.
(Ord. 338A, passed 5-5-92)

ON-SITE SEWAGE DISPOSAL

§ 52.85 ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT.

The city clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the Tex. Health and Safety Code and Chapters 7 and 37 of the Tex. Water Code, and associated rules referenced in § 52.88.
(Ord. 944, passed - -)

§ 52.86 AREA OF JURISDICTION.

The rules shall apply to all the area lying within the incorporated limits of the city.
(Ord. 944, passed - -)

§ 52.87 ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of the city must comply with the rules adopted in § 52.88.
(Ord. 944, passed - -)

§ 52.88 ON-SITE SEWAGE FACILITY RULES ADOPTED.

The rules, Title 30 Tex. Administrative Code, Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of the city having duties under said rules are authorized to perform such duties as are required of them under said rules.
(Ord. 944, passed - -)

§ 52.89 INCORPORATION BY REFERENCE.

The rules, 30 Tex. Administrative Code, Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these rules.
(Ord. 944, passed - -)

§ 52.90 AMENDMENTS.

The city wishing to adopt more stringent rules for its OSSF Ordinance understands that the more stringent local rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent rules adopted by the city:

(A) A permit shall be required for all on-site sewage facilities (OSSF) regardless of acreage, and so the exception found in 30 Tex. Administrative Code § 285.3(f)(2) shall not apply in the city limits.

(B) Permits shall not transfer automatically to a new owner upon sale or other legal transfer of an OSSF, and so 30 Tex. Administrative Code § 285.3(a)(3) shall not apply in the city limits. Within 60 days prior to the sale or transfer of any property on which a permitted OSSF exists, the seller or transferor must pay an inspection fee as established by the regulatory authority and have an inspection of the OSSF performed by a licensed designated representative of the health district. Only after the payment of such a fee and the conduction of an inspection in which the OSSF is found to be compliant, does the permit become transferable upon any sale or legal transfer which occurs within 60 days of the inspection. OSSFs for properties which transfer without

the required fee and inspection shall be deemed to be invalid, and the new owner, buyer or transferor must pay the required fee and obtain the inspection before operating the OSSF.

(C) Within 60 days prior to the sale or transfer of any property on which any OSSF, including an OSSF exempt from permitting requirements by 30 Tex. Administrative Code § 285.3(f), exists, the seller or transferor must pay an inspection fee as established by the regulatory authority and have an inspection of the OSSF performed by a licensed designated representative of the health district. Only after the payment of such a fee and the conduction of an inspection in which the OSSF is found to be compliant, does the use of the system become transferable upon any sale or legal transfer which occurs within 60 days of the inspection. OSSFs for properties which transfer without the required fee and inspection shall be deemed to be invalid, and the new owner, buyer or transferor must pay the required fee and obtain the inspection before operating the OSSF.

(D) The Aerobic treatment unit sizing chart in Table II of 30 Tex. Administrative Code § 285.91(2) is replaced with the following:

Size of Home	***Minimum Aerobic Tank Treatment Capacity in gallons per day***
3 or fewer bedrooms and less than 2,501 sq ft.	450
4 bedrooms and less than 3,501 sq. ft. or less than 4 bedrooms, larger than 2,500, but smaller than 3,501	600
5 bedrooms and less than 4,501 sq. ft. or less than 5 bedrooms, larger than 3,500, but smaller than 4,501	750
6 bedrooms and less than 5,501 sq. ft. or less than 6 bedrooms, larger than 4,500, but smaller than 5,501	900
7 bedrooms and less than 7,001 sq. ft. or less than 7 bedrooms, larger than 5,500, but smaller than 7,001	1050
8 bedrooms and less than 8,501 sq. ft. or less than 8 bedrooms, larger than 7,000, but smaller than 8,501	1200
9 bedrooms and less than 10,001 sq. ft. or less than 9 bedrooms, larger than 8,500, but smaller than 10,001	1350
10 bedrooms and less than 11,501 sq. ft. or less than 10 bedrooms, larger than 10,000, but smaller than 11,501	1500
For each additional bedroom above ten or every additional 1,500 sq. ft. of living areas above 11,500	add 150

(E) The following requirement is added to 30 Tex. Administrative Code § 285.32(a): Structures which have more than one sewer stub out shall have a common connection of all sewer lines before the treatment system unless the treatment system is designed with more than one entrance.

(F) The following requirement is added to 30 Tex. Administrative Code § 285.3(d): Installers and their apprentices shall during installation, maintain on the job site copies of all approved plans, contracts, manifests, well data, and the specifications of the components relating to the installation of the OSSF, and shall make same available to the inspector until all required inspections are completed.

(G) On-Site sewage facilities maintenance and management practices: maintenance contract requirements for all OSSFs are identified in 30 Tex. Administrative Code § 285.91(12). Further, maintenance and management practices shall comply with 30 Tex. Administrative Code §§ 285.7 and 285.39.

(1) No homeowner/property owner shall be allowed to perform any maintenance on an on-site disposal system using aerobic treatment unless the homeowner/property owner:

(a) Provides documentation of completing and passing a basic OSSF maintenance course approved by the regulatory authority for aerobic treatment units and the property to be maintained is owned by the trained home owner;

(b) Holds a valid wastewater Class D license or higher wastewater treatment license;

(c) Shows the OSSF was lawfully installed as of October 1, 2009, and has maintained said OSSF prior to that date may continue to do so; or

(d) Demonstration from all of the above mentioned, must be able to illustrate to a licensed designated representative of the health district that he can perform the following procedures for maintaining the OSSF: replacing air filters, cleaning aerobic diffusers, spinners and agitators, cleaning pumps, testing for chlorine and/or fecal coliform, monitoring turbidity, scum and sludge build-up, controlling odor, and ensuring the application area is distributing properly and according to the original system design. The owner must inspect the OSSF and submit an inspection report to the health district every four months. An owner who fails to submit inspections as required shall not be permitted to self-maintain, and will be required to obtain a testing and reporting contract from a licensed OSSF maintenance provider.

(2) Each maintenance provider having contracts in Burkburnett shall register with Wichita Falls-Wichita County Public Health District (health district) Environmental Health Division. Maintenance provider registration shall be effective from the date of registration to December 31 of the same year. Renewal maintenance provider registration for the next year shall not be accepted before December 1 of the current year. New and renewal maintenance contracts will only be accepted from maintenance providers whose registration is current and in good standing. Maintenance provider registration shall be free of charge.

(a) Maintenance providers who fail to perform maintenance testing at the required intervals, mark an inspection tag, or submit a report on time two or more times during any 12-month period may have their registration suspended for no longer than one year in addition to any other penalties that may apply. No new or renewal maintenance contracts will be accepted from a maintenance provider during the time their registration is suspended.

(b) A licensed OSSF maintenance provider will submit an inspection report for each OSSF to the health district every four months. Renewal contracts shall be for a term of no less than one year and include at least three inspections. Contract renewals with the same maintenance provider will not be accepted by the health district unless all of the maintenance reports from the previous contract period have been received.

(H) All components that need to be replaced on an OSSF shall be replaced by an individual licensed by the TCEQ to replace or repair the specific component. Said replacement must utilize components certified by the manufacturer for use on the specific model being maintained.
(Ord. 944, passed - -)

§ 52.91 DUTIES AND POWERS.

The Wichita Falls/Wichita County Public Health District is declared the designated representative for the enforcement of the rules under this division within the city. Individuals employed by the health district will represent the district as the designated representative; however, these individuals must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the designated representative.
(Ord. 944, passed - -)

§ 52.92 COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the Wichita Falls Wichita County Public Health District. A fee of ten dollars will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the Tex. Health and Safety Code, Chapter 367.
(Ord. 944, passed - -)

§ 52.93 APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Board of Commissioners of the city.
(Ord. 944, passed - -)

§ 52.94 ENFORCEMENT PLAN.

(A) The city clearly understands that, at a minimum, it must follow the requirements in 30 Tex. Administrative Code § 285.71 Authorized Agent Enforcement of OSSFs.

(B) This chapter adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Tex. Health and Safety Code, Chapters 7, 26, and 37 of the Tex. Water Code and 30 Tex. Administrative Code Chapter 30, Subchapters A and G, and Chapter 285.
(Ord. 944, passed - -)

§ 52.95 RELINQUISHMENT OF ORDINANCE.

(A) If the Board of Commissioners of the city decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Board of Commissioners, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 Tex. Administrative Code § 285.10(d)(1) through (4).

(B) After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 Tex. Administrative Code §§ 285.10(d)(5) and 285.14 after the date that delegation has been relinquished.
(Ord. 944, passed - -)

§ 52.99 PENALTY.

(A) If a person intentionally, knowingly, or recklessly violates any of the provisions of this chapter or of the Burkburnett City Code relating to the sewer service, he shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be punished by a fine not exceeding $1,000 for each offense. Each day on which such a violation shall occur or continue shall be deemed a separate offense. Any such violation which causes endangerment (placing another person in imminent danger of death or serious bodily injury) has committed a felony and the act is punishable by fines up to $250,000, imprisonment of up to 15 years, or both.

(B) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter or wastewater discharge permit or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, for each offense be guilty of a misdemeanor and, upon conviction in the municipal court, shall be punished by a fine of not more than $1,000.

(C) In addition to the penalties provided in this section, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation against any person found to have committed any offense described in divisions (A) and (B) above.
(Ord. 338A, passed 5-5-92)

(D) Sections 52.85 through 52.95 adopt all applicable penalty provisions to on-site sewage facilities, including, but not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 26 of the Texas Water Code and the Texas Administrative Code Chapter 285. (Ord. 593, passed 6-19-00)

CHAPTER 53: WATER

Section

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GENERAL PROVISIONS

§ 53.01 INSTALLATION OF WATER MAINS; SERVICE IN NEW ADDITIONS.

All additions that are to be developed within the city limits or within one mile of the existing city limits and wish to use city water for supplying to the addition then must conform to the following procedure:

(A) The developer shall have a survey made by a licensed surveyor or engineer and a plat drawn describing the addition by metes and bounds according to existing surveys. A copy of this plat shall be presented to the Board of Commissioners, showing the proposed blocks, lots, streets, alleys, and utility easements, and also the proposed names of the streets with all dimensions.

(B) The city shall determine the water system needed, as to the size of mains, location of fire hydrants with reference to the various lots, and work up a total cost estimate for materials and installation of the water system; and at that time the developer will place that amount of money in an account with the city and the city will obtain the materials and let the contract for installation of the water system.

(C) The city will extend the water main to the addition at the nearest point of connection to the system in the addition and make the tie-in. The city shall also furnish the fire hydrants to be placed in the system, at such time as the water is turned into the system in the addition. When the system is checked and inspected and found to be satisfactory, then that system shall become the property of the city without recourse and they shall then assume the operation and maintenance of the system.

(D) The developer shall pay all of the expense of the system in the addition up to the individual meters and shall not be reimbursed by the city for any of his expense.

(E) The developer shall be required to furnish standard street signs at all street intersections, that will meet the approval of the city and which will conform to other existing street signs being used in other portions of the city.
(Ord. 234, passed 3-25-57)

§ 53.02 PROHIBITING USE OF WATER FROM CITY WATER MAINS FOR SPRINKLERS, AIR CONDITIONERS, AND WASHING OF MOTOR VEHICLES.

(A) It shall be unlawful for any person, firm, or corporation to use water from the city water mains to irrigate, sprinkle, or wet down any lawns, gardens, trees, or shrubs within or outside the city limits; to use the water in air conditioners not having a circulating pump; or to use the water for washing cars or other motor vehicles within or outside the city limits.

(B) The Board of Commissioners shall have the authority, in order to conserve the shrubs and trees of the citizens of the city, to zone the city, and through proclamation to allow the people of the city in those zones to use water for specified purposes set out in the proclamation.

(C) The City of Burkburnett Drought Contingency Plan, be and the same is hereby adopted by reference as the official plan of the city as if fully set out herein.
(Ord. 218, passed 6-15-53; Am. Ord. 573, passed 9-7-99; Am. Ord. 848, passed 11-18-13; Am. Ord. 854, passed 5-19-14; Am. Ord. 864, passed 5-19-14) Penalty, see § 53.99

§ 53.03 USE OF WATER DURING DROUGHT CONDITIONS.

(A) It shall be unlawful to use water during drought conditions outside of any residence or premises except on the days and hours designated by the Board of Commissioners, which designation shall be published in the local newspaper, posted on the city bulletin board, and filed with the City Secretary.

(B) This section may be enforced by injunction or cutting off of the water supply to any violator or in any other legal manner in a court of competent jurisdiction.
(Ord. 310, passed 8-3-71) Penalty, see § 53.99

§ 53.04 USE OF OUTSIDE WATERING.

It shall be unlawful for any person, firm, corporation or other entity, at any time of the year to:

(A) Run outside spray type irrigation on any day of the week between 11:00 a.m. and 6:00 p.m. Landscape watering is permitted any time with a hand held hose, soaker hose, bucket, watering can, bubbler or drip irrigation system.

(B) Wash any motor vehicle at any location other than a commercial car wash, car dealership, detail shop or automotive shop unless the hose is equipped with a positive shut off nozzle. Such nozzle shall stop the flow of water through the hose when released by the operator.

(C) Install new irrigation systems unless they are designed so as to be water conserving. A site plan and construction documents of such systems shall be made available to the City Building Officials for permit approval. All irrigation systems will require a backflow prevention device at delivery point to the system.
(Ord. 621, passed 7-16-01)

RATES; BILLING

§ 53.20 RATES; BILLING.

(A) The water rates to be charged and collected per month by the city from all customers within the city limits obtaining service from the waterworks system of the city, shall be and are hereby fixed as follows:

Gallons	Monthly Rate
Minimum first 2,000	$26.50
Senior citizens (65 and over), Minimum first 2,000	$25.50
2,001 - 10,000	$6.61 per 1,000 gallons
10,001 - 15,000	$7.57 per 1,000 gallons
15,001 - 20,000	$8.00 per 1,000 gallons
20,001+	$9.00 per 1,000 gallons

(B) All customers outside the city limits obtaining service from the waterworks system of the city shall pay double the above fixed rates.
(Ord. 352, passed 3-20-78; Am. Ord. 406, passed 9-19-83; Am. Ord. 423, passed 10-21-85; Am. Ord. 439, passed 5-18-87; Am. Ord. 510, passed 8-16-93; Am. Ord. 618, passed 6-18-01; Am. Ord. 701, passed 8-15-05; Am. Ord. 724, passed 9-18-06; Am. Ord. 765, passed 8-17-09; Am. Ord. 814, passed 9-19-11; Am. Ord. 835, passed 7-15-13; Am. Ord. 847, passed 11-18-13; Am. Ord. 853, passed 3-17-14; Am. Ord. 856, passed 6-16-14; Am. Ord. 862, passed 9-15-14; Am. Ord. 880, passed 6-5-15; Am. Ord. 883, passed 8-17-15; Am. Ord. 895, passed 2-15-16; Am. Ord. 906, passed 9-19-16)

§ 53.21 DISCONNECTION OF SERVICE.

The City Manager and the officers and employees of the Water Department are authorized, and it shall be their duty, after the tenth day of any month, to cut off the city water from any house where the water and sewer charges have not been paid for the preceding month. The water meter deposit made for such house shall stand good for all water and sewer charges due by the owner or occupant of the house and those charges shall be deducted from the deposit when a refund is made.
(Ord. 158, passed 2-1-26)

§ 53.22 WATER SECURITY DEPOSITS.

(A) The rates for residential and commercial water security deposits set by the Board of Commissioners shall be as follows:

SERVICE	RATES
Residential customers	$75
Commercial customers (Under 10,000 gallons)	$75
Commercial customers (Over 10,000 gallons)	$100

(B) A security water deposit shall be required by each residential and commercial customer. Such deposit will be refunded in full when the customer's final bill is paid or will be applied to the balance owed after services have been terminated.

(C) Any person leaving the city with a bad debt and later returning and wanting services restored, shall be required to pay all outstanding debts and put up a new security deposit before services are restored to such party.
(Ord. 519, passed 11-15-93; Am. Ord. 539, passed 11-20-95; Am. Ord. 738, passed 9-12-07)

§ 53.23 TRANSFER FEE.

A service charge of $15 will be added to a customer's bill each time the customer moves to a different service address.
(Ord. 519, passed 11-15-93; Am. Ord. 539, passed 11-20-95)

§ 53.24 RECONNECT FEE.

A reconnect charge of $25 plus full amount of delinquent water, sewer and sanitation will be paid before services will be reinstated.
(Ord. 519, passed 11-15-93; Am. Ord. 539, passed 11-20-95)

§ 53.25 RETURNED CHECK FEE.

A service charge of $15 will be made for every insufficient check.
(Ord. 519, passed 11-15-93; Am. Ord. 539, passed 11-20-95)

§ 53.26 REMINDER NOTICES.

Reminder notices will be mailed out on or about the 20th of each month.
(Ord. 539, passed 11-20-95)

§ 53.27 CUTOFFS.

Cutoff of water service (for non-payment of water, sewer and sanitation charges) will occur on or after the 25th of each month.
(Ord. 539, passed 11-20-95)

§ 53.28 LATE CHARGE FEE.

A late charge fee of 10% of the total amount of the bill will be added to a customer's water bill if paid after the due date posted on the bill.
(Ord. 571, passed 8-16-99; Am. Ord. 883, passed 8-17-15; Am. Ord. 895, passed 2-15-16; Am. Ord. 906, passed 9-19-16)

§ 53.29 AUTOMATIC METER RATES.

The prices for the new automatic meter reading water meters are as follows:

Size	Cost
3/4-inch (meter box/meter only)	$200
3/4-inch (full service connect)	$300
1-inch	$400
1-1/2 inch	$700
2-inch	$1,000

(Ord. 670, passed 3-16-04)

§ 53.30 WATER VENDING MACHINE.

(A) For residential customers obtaining water from the water vending machine who are not residents of the city, the rate shall be $6.15 per thousand gallons of water, plus a service fee of $25 per month, and a $75 deposit. Persons who are not residents of the city may not purchase more than 10,000 gallons of water from the water vending machine per calendar month per residence.

(B) Persons purchasing water from the water vending machine may only use said water in accordance with drought management provisions applicable to water service from the city.
(Ord. 844, passed 9-23-13; Am. Ord. 855, passed 5-19-14)

WATER WELLS

§ 53.40 GENERAL PROVISIONS.

It shall be unlawful for any person, firm or corporation to drill or operate any water well within the corporate limits of the city without first obtaining a permit therefore from the city, and without complying with the terms and provisions of this subchapter.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.41 APPLICATION FOR DRILLING AND OPERATION OF WELLS.

Application for the drilling and/or operation of a water well shall conform to the following requirements and give the following information:

(A) It shall be in writing and signed by the owner of the premises where the well is located.

(B) It shall give the street address and legal description of the property where the well is located or to be located.

(C) It shall be accompanied by detailed drawings and specifications showing the exact location of the well on the premises, the depth and diameter of the well hole, type and size of the casing and pumping facilities to be used, maximum capacity per minute of the pumping facilities, and location of all piping and outlets on the premises to be served by the well.

(D) It shall be accompanied by a fee of $25 to defray the city's cost in investigating the application and issuing the permit. This fee will not be refundable whether the permit is granted or denied. (Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.42 REGULATIONS.

All water wells for non-municipal use in the city shall be drilled and operated in conformity with the following regulations:

(A) The well hole shall not have a maximum depth in excess of 200 feet from the ground surface.

(B) The well borehole shall not have a maximum diameter in excess of six inches.

(C) No windmill shall be erected or used as a means of pumping water from the well.

(D) The well shall be located only in the backyard of the premises, and no well shall be permissible in the front or side yards of any premises within the city.

(E) The pumping device used to raise water from the well shall not have a maximum height of more that seven feet above ground level, and shall not have a maximum pumping capacity in excess of 30 gallons per minute.

(F) The well opening, pumping facilities and storage tanks shall be housed in a manner to comply with all applicable city codes.

(G) The pumping and electrical connections to the well shall be in conformity with all requirements of the city Building Codes.

(H) The well, pumping facilities and water systems connected

thereto shall be subject to inspection by the city.
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(I) No such well shall ever be connected to the city Municipal Water System.

(J) Water from such well shall be used only for non-domestic purposes. Non-domestic purposes, as used in this subchapter, shall mean for purposes other than for non-human consumption and/or connection to plumbing facilities used within residential and public buildings of all kinds for preparation of food for human consumption and/or washing of utensils used in cooking or serving food for human consumption and clothing for human wear and/or disposal of waste into the city Municipal Sewer System.

(K) Water from such well shall be used only for non-domestic uses of the owner of the premises where the well is located, and no water from such well shall be given away or sold to other persons, firms or corporations.

(L) If the city, after investigation, determines that water from such well is being discharged in any manner, by drainage or seepage or otherwise, into the city Municipal Water System, an additional sewer charge will be made to such premises to reasonably compensate the city for handling such discharge.

(M) Such well shall be drilled and operated in conformity with all municipal, county and state health and safety laws, rules and regulations, which compliance shall be the responsibility of the owner or owners of the premises where the well is located.

(N) Water faucets connected with such well, whether located at the wellhead or otherwise, shall be enclosed and locked when not in use, so as to prevent access thereby by children or any person who is not authorized by the owner to use water from the well in conformity with this subchapter.

(O) During any time of rationing of water usage from the city Municipal Water System, the premises where any such well is located shall have a legible sign placed in the front yard of the premises to inform both the public and municipal officials that a private well is in operation on said premises.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.43 PERMITS.

(A) Applications for permits under this subchapter shall be made to the city Community Planning Department, and in addition to other information herein required, shall state in detail the specific use intended to be made of water from the well for which the permit is requested. If the application is found to be in order and in compliance with all of the regulations contained in this subchapter, as well as state, county and other municipal laws, rules and regulations, then the permit will be issued; otherwise it will be denied. Denial of a permit may be appealed to the city Board of Commissioners. by giving notice in writing to the City Secretary of intent to appeal within 15 days after notice of such denial.

(B) Any permit issued under this subchapter shall be for the sole benefit of the owner or owners, and their tenants, of the property where located. In the event of a subsequent change of ownership of the subject property, then the new owners must submit a new application to the city for a permit for continued use of the existing well.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.44 INSPECTION Of WELL PREMISES.

Premises where any private well, as contemplated by this subchapter, is located, shall be subject to inspection at any time, without notice, by municipal officials, to determine whether it is being drilled and/or operated in conformity with the provisions of the subchapter, and whether water from such well is being discharged into the city Municipal Sewer System or connected in any way to the city Municipal Water System.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.45 EXEMPTIONS.

Wells for non-municipal use within the city in existence at the effective date of this subchapter shall be exempt from the limitations set forth in the subchapter with respect to depth and diameter of the well hole, size and type of pumping facilities and location on the premises, if they are not then in conformity with such regulations. The exemptions shall continue only during the continuing life and uses of the well, however, and shall terminate upon the abandonment of the well. Existing wells, however, shall be subject to all other regulations of this subchapter relating to their continued operation, including the requirement of a permit for such continued operation; provided, however, the owner or owners of the premises where such existing wells are located shall have a period of three months in which to obtain a permit. No permit fee will be charged for the initial permit for continued operation of an existing well.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.46 ABANDONMENT OF WELLS.

Upon abandonment of any non-municipal well in the city, the owner or owners of the premises where such well is located shall disconnect all plumbing lines and connections from said well and shall plug the hole, with cement or other means, sufficient to prevent any person from stepping into or falling in the well hole or raising water from the abandoned well.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

§ 53.47 VARIANCES.

If water from the city Municipal Water System is not available to particular premises within the city, or for any other reason of an emergency or hardship nature under particular circumstances deemed adequate after hearing, any provisions of this subchapter should equitably be waived, then the Board of Commissioners may grant variances from the particular provisions of the subchapter as to particular premises, either temporary or permanent, in order to alleviate such hardship, emergency or inequity. Application for such variance shall be made in writing, and unless made a part of an original application hereunder, shall be accompanied by the same fee as for drilling or operation of a well. The Board of Commissioners may, at its election, refer such application to the city staff for study and recommendation.
(Ord. 612, passed 2-19-01) Penalty, see § 53.99

OUT OF CITY WATER SALES

§ 53.50 WHERE AND TO WHOM OUT OF CITY WATER SALES CAN BE MADE.

(A) Sale and distribution of potable water by the city may be made outside of the city limits of the city to any qualified non-city user in accordance with these rules and regulations.

(B) A "QUALIFIED NON-CITY USER" shall mean:

(1) Any person or firm presently purchasing water from the city or that desires to purchase water from the city; and

(2) That is located outside of the territorial limits of the city but within the city's extraterritorial jurisdiction, as such territorial jurisdiction presently exists or as it may be expanded by operation of law or amendment of the statute relating to the extraterritorial jurisdiction of municipalities; and

(3) That installs and maintains an approved water line, which taps onto an approved water main (as those terms are defined in these rules), and a city water meter.
(Ord. 652, passed 1-20-03)

§ 53.51 WATER RATES AND CHARGES.

(A) Water rates. A qualified non-city user shall pay the city for the water metered through the user's water meter. The amount to be paid by a qualified non-city user shall be calculated at a rate that is twice the rate that would be paid by the user if the user were located

within the city limits. A qualified non-city user shall be responsible for their own line (types and size of which are to be approved by the city as provided in these regulations) and any loss or usage will be paid by such user (no leak adjustments will be made).

(B) Tap fees. Any qualified non-city user desiring to tap onto a water main shall pay the same fee schedule set out in § 53.29. (See below.) In addition, taps requiring a road crossing will be charged an additional $150 (long service connections).

Size	Cost
3/4″ (meter box/meter only)	$200
3/4″ (full service connect)	$300
1″	$400
1-1/2″	$700
2″	$1,000

(C) Security deposit and contract. A qualified non-city user shall pay the current security deposit for residential and/or commercial accounts (for users located within the city limits) and execute a water sales contract provided by the city's Utility Billing Department at City Hall prior to water service being connected.

(D) Billing. All charges and fees required to be paid by a qualified non-city user shall be billed and collected in the same manner as charges and fees relating to water sales and usage are billed to and collected from users located within the city limits.

(E) Water main preliminary plan inspection fee. Any person desiring to construct and dedicate an approved water main, in accordance with these rules and regulations, shall, at the time preliminary plans are submitted to the city, pay a processing fee of $150 to defray the city's cost of consultation and inspection with respect to such main.

(F) Findings. The city finds that the foregoing rates and charges are fair and reasonable, represent a fair return on the investment of the city in the assets it uses to acquire, treat and distribute potable water taking into account the burden placed on the city's overall water system in supplying such out of city users and the absence of offsetting revenues from qualified non-city users (such as ad valorem tax revenue).
(Ord. 652, passed 1-20-03; Am. Ord. 664, passed 10-27-03; Am. Ord. 672, passed 4-19-04)

§ 53.52 APPROVAL OF DISTRIBUTION SYSTEM.

(A) Review of plans for water mains. A developer or any other person that desires to become a qualified non-city user or to provide water service for persons who desire to become qualified non-city users shall submit plans for a water main to the City Manager or his/her designee. Such plans must provide sufficient detail to demonstrate that the proposed water main will:

(1) Meet all applicable standards for its construction and operation, including, without limitation, those standards specified by the building codes, plumbing codes and other applicable construction codes adopted by the city and governing subdivisions and construction within the city limits;

(2) Comply with all federal and state laws, rules and regulations pertaining to the construction and distribution of potable water;

(3) Be adequate to provide for the needs of persons who will be eligible to tap onto the main both at the time it is constructed and at the time the area in which the main is located is fully developed;

(4) Operate properly with the city's existing water distribution system, will not place any undue strain of the city's existing water distribution system and will be tied into the city's existing water distribution system in a manner which will insure the safe and proper operation of the new main and the city's existing water distribution system;

(5) Be located within the bounds of a perpetual easement or real estate owned in fee by the developer or person constructing the water main; which easement or real estate must be wide enough to encompass the water main and provide access for maintenance and repair of the main and otherwise acceptable to the city and which will be conveyed to the city in accordance with these regulations;

(6) Include a copy of a title policy, lawyer's title opinion or other information acceptable to the city indicating ownership of the property on which the water main will be located and a copy of the proposed easement or conveyance of such property and the water main to the city; and

(7) Specify the estimated cost of the construction of the proposed water main for purposes of determining the capital recovery fee described below.

(B) The City Manager or his/her designee shall have discretion to approve or disapprove of any aspect of the plans required by these regulations and to determine the sufficiency of information submitted by a developer.

(C) Dedication of qualified water main to city. The city shall not be responsible for any of the cost of constructing a qualified water main. The developer or person proposing to construct a qualified water main must agree to dedicate or convey the qualified water main and the easement or real property described above to the city.

(D) Final inspection of water mains. Upon completion of the construction of a proposed water main the City Manager or his/her designee shall inspect the water main to determine its compliance with the plans previously approved by the city. A water main, which complies with the approved plans, shall be designated as a "qualified water main." Prior to the final approval a conveyance or easement of the water main to the city shall be executed in recordable form and delivered to the City Manager or his/her designee.

(E) Qualified water lines. A person who desires to become a qualified non-city user and tap onto a qualified water main shall make application with the City Manager or his/her designee for a tap. The person shall submit such information as may be necessary to demonstrate that the tap and the water line serving such person's property will:

(1) Meet all applicable standards for its construction and operation, including, without limitation, those standards specified by the building codes, plumbing codes and other applicable construction codes adopted by the city and governing subdivisions and construction within the city limits;

(2) Comply with all federal and state laws, rules and regulations pertaining to the construction and distribution of water;

(3) Operate properly with the city's existing water distribution system, will not place any undue strain on the city's existing water distribution system and will be tied into the city's existing water distribution system in a manner which will ensure the safe and proper operation of the new main and the city's existing water distribution system; and

(4) Not be used for any purpose prohibited by these regulations.

(F) A person desiring to become a qualified non-city user and tap onto a qualified water main shall submit such information as the City Manager or his/her designee deems reasonably necessary to determine compliance of the proposed water line with these regulations and, if the water line is to serve any structure other than a residence, to determine the volume of usage.
(Ord. 652, passed 1-20-03)

§ 53.53 USAGE RULES.

(A) High volume usage. Water will not be sold or distributed to any person or firm outside of the city limits for any high volume use such as livestock watering or industrial or manufacturing uses unless the City Manager or his/her designee gives a specific waiver of this requirement. The City Manager or his/her designee may develop rules or criteria to determine what is a high volume use.

(B) Restrictions on usage. All qualified non-city users shall be subject to the same restrictions and regulations which are applicable to users within the city limits including, without limitation, any rationing or curtailment plans implemented by the city.
(Ord. 652, passed 1-20-03)

§ 53.54 AMENDMENT OF REGULATIONS; NO VESTED RIGHTS.

The above rules and regulations may be amended or repealed by subsequent action of the Board of Commissioners. No person shall have any vested right to water service or the continuation of water service under these regulations. These regulations shall not be construed as imposing any duty on the city to provide water service or to continue providing water service to any person located outside of the city limits. These regulations are simply designed to provide the conditions under which the city will provide water service to persons outside of the city limits in those circumstances in which the city, in its sole and absolute discretion, determines it will provide such service.
(Ord. 652, passed 1-20-03)

WATER CONSERVATION PLAN

§ 53.60 ADOPTION OF PLAN.

The City of Burkburnett, Texas Water Conservation Plan attached to Ordinance 909 as Exhibit A and made part hereof for all purposes be, and the same is hereby adopted as the official policy of the city.
(Ord. 761, passed 5-18-09; Am. Ord. 832, passed 3-18-13; Am. Ord. 834, passed 5-20-13; Am. Ord. 848, passed 11-18-13; Am. Ord. 854, passed 5-19-14; Am. Ord. 864, passed 5-19-14; Am. Ord. 909, passed 12-19-16)

§ 53.99 PENALTY.

(A) Any person, firm, corporation, or association who shall violate any of the provisions of § 53.02 or suffer or allow the same to be violated, shall upon conviction therefor be subject to a fine of not more than $200.
(Ord. 218, passed 6-15-53)

(B) Any person, firm, or corporation who violates any of the provisions of § 53.03 shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum of not less than $5 and not more than $200 for each offense. Each day's continuance of a failure to comply therewith shall constitute a separate and distinct offense for each of those days.
(Ord. 310, passed 8-3-71)

(C) Any person violating any of the provisions of §§ 53.40 through 53.47 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed $200. Each day that a violation of §§ 53.40 through 53.47 occurs by continued drilling or operation of a well in violation of the provisions of §§ 53.40 through 53.47 shall be deemed to constitute a distinct and separate offense.
(Ord. 612, passed 2-19-01)

CHAPTER 54: STORMWATER DRAINAGE UTILITY SYSTEM

Section

54.01 Definitions
54.02 Established
54.03 Adoption of system
54.04 Schedule of charges
54.05 Exemptions
54.06 Billing, deposits and expenditures
54.07 Appeals

§ 54.01 DEFINITIONS.

(A) For the purpose of this chapter the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

"BENEFITED PROPERTY." A lot or tract to which drainage service is made available or which receives water or wastewater or sanitation service from the city.

"COST OF SERVICE." As defined by law, includes the following:

(a) The prorated cost of land, easements and rights-of-way related to drainage improvements;

(b) The cost of acquisition, construction, repair and maintenance of structures, equipment and facilities used in draining the benefited properties;

(c) The cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicality of structures, equipment, and facilities used in draining the benefited properties;

(d) The cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefited properties;

(e) The cost of funding, debt service, financing charges, and interest arising from construction projects and the start-up of a drainage facility used in draining the benefited properties; and

(f) The administrative costs of a drainage utility system.

"DRAINAGE CHARGE."

(a) The levy imposed to recover the cost of service of the city in furnishing drainage for any benefited property; and

(b) An amount made in contribution to funding of future drainage system construction by the city.

"DRAINAGE SYSTEM." The drainage owned or controlled in whole or in part by the city and dedicated to the service of benefited property, including provisions for additions to the system.

"SERVICE AREA." The municipal boundaries of the city.

(B) Specific terms used in this chapter or in the administration of this chapter not otherwise defined shall have the respective meanings assigned to them in §552.044 TEX. LOC. GOVT. CODE, as amended.
(Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12)

§ 54.02 ESTABLISHED.

The city does hereby declare under the state constitution and §§ 552.041 through 552.054 TEX. LOC. GOVT. CODE (the "Municipal Drainage Utility Systems Act") as such act is adopted and amended, from time to time, that the drainage system of the city shall be a public utility. Pursuant to the provisions of TEX. LOC. GOVT. CODE § 552.046, the city incorporates its existing drainage facilities, materials, and supplies into the system.
(Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12)

§ 54.03 ADOPTION OF SYSTEM.

(A) The Board of Commissioners of the city finds that the city shall establish a schedule of charges against all eligible real property in the proposed service area.

(B) The Board of Commissioners of the city finds that the city will provide drainage for all eligible real property in the service area subject to charges under Chapter 552 of the TEX. LOC. GOVT. CODE upon payment of drainage charges, unless exempted in this chapter.

(C) The Board of Commissioners of the city finds that the city will offer drainage service on nondiscriminatory, reasonable and equitable terms.
(Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12)

§ 54.04 SCHEDULE OF CHARGES.

(A) The schedule of charges under this chapter is based on studies, staff review, and the projects and work program approved by

the Board of Commissioners. Future revisions will be made only after a separate hearing has been held with notices properly published.

(B) The schedule of charges is based on a methodology that is nondiscriminatory, reasonable, and equitable. The properties are established as a class unless individual calculation is believed to be necessary. The source of the impervious area data is the city and the stormwater runoff factors are based on engineering quantifications. The fee for all properties is computed using the same formula, which places all properties on the basis of a single-family living unit equivalent (SFLUE).

(1) A SFLUE is defined as the impervious area of an average residential lot which is 3,500 square feet.

(2) The minimum monthly drainage utility system fee for a nonresidential piece of property is four dollars. An additional $4 fee will be charged for each additional SFLUE. Each SFLUE is treated as a whole. If a nonresidential piece of property has impervious cover greater than 3,500 square feet but less than 7,000 square feet, the fee will be $8 per month.

(3) Applied to a nonresidential piece of property with an impervious area of 31,600 square feet, the drainage utility system fee would be $40, computed as follows: 31,600 square feet impervious; 31,600 square feet of impervious area divided by 3,500 square feet of impervious area per SFLUE; = ten SFLUEs times four dollars per SFLUE; = $40 per month.

(4) The fee schedule is applied with the following results:

(a) For single-family residential, condominiums and townhome classifications: four dollars per month per utility customer.

(b) For nonresidential: The fee will be based on the impervious land area of the property as determined by the city if the water service is provided through master meters. In the case of multiple master meters, the sum of the drainage charges for the entire property may be placed on the same utility bill.

(C) All-weather surfaces: The drainage utility service fee for any portion of a lot which consists of an all-weather surface shall be computed at one-half of the rate that would be applicable to an impervious surface area. For purposes of this section an "ALL-WEATHER SURFACE" shall mean a surface used for pedestrian or vehicle traffic or vehicle or equipment storage or parking which is not paved with concrete, asphalt or other paving material determined by the city to be impervious.
(Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12; Am. Ord. 918, passed 6-30-17; Am. Ord. 956, passed 9-16-19)

§ 54.05 EXEMPTIONS.

The following categories of utility customers shall be exempt from this chapter and the charges hereby imposed:

(A) A lot or tract which is owned by one or more of the following governmental entities: the State of Texas, Wichita County or the Burkburnett Independent School District.

(B) Property which is required to be exempted from this chapter pursuant to § 552.053(c) TEX. LOC. GOVT. CODE, as amended.
(Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12)

§ 54.06 BILLING, DEPOSITS AND EXPENDITURES.

(A) The city will bill for drainage services on the monthly utility bill along with water, sewer and solid waste services.

(B) There will be no separate deposit required by utility customers.

(C) In the case of a delinquent payment of the monthly utility bill, which includes the drainage charge, the city is authorized by § 552.050 TEX. LOC. GOVT. CODE and by this chapter to discontinue service of all city utilities for nonpayment, even if the amount in dispute is the drainage charge component of the monthly utility bill.

(D) The city shall identify and separate all drainage utility income.

(E) The monies received from utility drainage charges shall be used only for purposes that are directly or indirectly related to the utility drainage system, as provided by law, including those costs of service defined in § 54.01 above.
(Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12)

§ 54.07 APPEALS.

(A) Disputes regarding the administration of drainage system shall be determined, in the first instance, by the city's Public Works Director. Any person disputing the decision of the Public Works Director may appeal the decision of the Public Works Director to the City Manager by compliance with the following procedures:

(1) The disputing party must deliver a written notice of appeal to the City Manager and the Public Works Director within ten days of the date of the decision by the Public Works Director. The notice must specify the decision appealed from and the reason the disputing party believes the decision is incorrect. The city may develop forms for use in such appeals and, if such forms have been developed, then the disputing party must use those forms in prosecuting their appeal.

(2) The City Manager shall sustain the decision of the Public Works Director if there is substantial evidence to support the decision. The City Manager may reverse or modify the decision of the Public Works Director if the City Manager determines:

(a) That the decision of the Public Works Director does not comply with this chapter or the Municipal Drainage Utility Systems Act, as amended; or

(b) That an error was made with regard to the category of land development, the area of imperviousness of the land development or the size of the developed property; or

(c) That the property is unimproved and therefore not subject to the stormwater drainage utility system fee.

(B) The City Manager shall render a written decision on such appeals within 30 days after receiving a written notice of appeal from the land owner. All such decisions by the City Manager shall be final. (Ord. 735, passed 9-17-07; Am. Ord. 822, passed 9-17-12)

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. TRAFFIC RULES

72. STOPPING, STANDING, AND PARKING

73. TRAFFIC SCHEDULES

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75. GOLF CARTS FOR CHRISTMAS PARCEL DELIVERY

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CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

70.01 Authorized emergency vehicles
70.02 Definitions

Traffic-Control Devices

70.20 Devices to conform to state manual
70.21 Authority to place and maintain traffic-control devices
70.22 Obeying traffic-control devices
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GENERAL PROVISIONS

§ 70.01 AUTHORIZED EMERGENCY VEHICLES.

(A) The driver of an authorized emergency vehicle, as the term authorized emergency vehicle is defined by state law, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(B) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this or any ordinance;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the prima facie speed limits so long as he does not endanger life or property; and

(4) Disregard regulations governing direction of movement or turning in specified directions.

(C) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of such vehicle in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, 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.

(D) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.
(Ord. 366, passed 7-16-79)

§ 70.02 DEFINITIONS.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"VEHICLE" or "VEHICLES." Any of the vehicles described in Texas Transportation Code § 541.201, as amended.
(Ord. 686, passed 12-20-04)

TRAFFIC-CONTROL DEVICES

§ 70.20 DEVICES TO CONFORM TO STATE MANUAL.

All traffic-control devices including signs, signals, and markings (pavement or curb) installed or used for the purpose of directing and controlling traffic within the city shall conform with the Texas Manual on Uniform Traffic Control Devices for Streets and Highways (hereafter called the Manual). Article 6701d, V.T.C.S., states: "All signs, signals, and markings erected or used by the city shall be uniform and be located so far as practicable according to the directions shown in the Manual throughout the city. All existing traffic-control devices and those erected in the future by the city being consistent with the Manual, state law, and this subchapter shall be official traffic-control devices."
(Ord. 366, passed 7-16-79)

§ 70.21 AUTHORITY TO PLACE AND MAINTAIN TRAFFIC-CONTROL DEVICES.

(A) The Board of Commissioners shall by ordinance or resolution direct that the City Engineer or Director of Public Works shall have the duty of erecting or installing upon, over, along, or beside any highway, street, or alley signs, signals, and markings, or cause the same to be erected, installed, or placed in accordance with this subchapter and consistent with the Manual. These traffic-control devices shall be installed immediately, or as soon as such specific device, sign, or signal can be procured.

(B) Whenever the City Engineer or Director of Public Works has erected and installed any official traffic-control device, signal, or sign at any location in the city, or has caused the same to be done under his direction, in obedience to this subchapter and the Manual, shall thereafter file a report with the City Secretary in writing and

signed officially by the City Engineer or Director of Public Works, stating the type of traffic-control device, sign, or signal, and when and where the same was erected and installed; the City Secretary shall file and maintain such report of the City Engineer or Director of Public Works among the official papers of the office of the City Secretary.

(C) It being unlawful for any person other than the City Engineer or Director of Public Works, acting pursuant to an ordinance or resolution of the city, to install or cause to be installed any signal, sign, or device purporting to direct the use of the streets or the activities on those streets of pedestrians, vehicles, motor vehicles, or animals, proof, in any prosecution for a violation of this subchapter or any traffic ordinance or resolution of the city, that any traffic-control device, sign, signal, or marking.
(Ord. 366, passed 7-16-79) Penalty, see § 70.99

§ 70.22 OBEYING TRAFFIC-CONTROL DEVICES.

The driver of any vehicle, motor vehicle, or animal shall obey the instructions of any official traffic-control device, sign, signal, or marking applicable thereto placed in accordance with this subchapter, the Manual and any ordinance or resolution directing that such traffic-control device, sign, or signal shall be installed or erected unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle permitted by § 70.01.
(Ord. 366, passed 7-16-79) Penalty, see § 70.99

§ 70.23 PROHIBITION AGAINST UNAUTHORIZED SIGNS OR SIGNALS.

(A) No persons shall place, maintain, or display upon or in view of any highway, street, or alley any unauthorized signs, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal.

(B) No person shall place or maintain nor shall any public authority permit upon any highway, street, or alley any traffic sign or signal bearing thereon any commercial advertising.

(C) This section shall not be deemed to prohibit the erection upon private property adjacent to highways, streets, or alleys of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(D) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance, and the Chief of Police is hereby empowered to remove the same or cause it to be moved.
(Ord. 366, passed 7-16-79) Penalty, see § 70.99

§ 70.24 PROHIBITION AGAINST ALTERATION, DEFACING, OR REMOVAL.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device, sign, or signal or any railroad sign or signal or any inscription, shield, or insignia thereon, or any part thereof. (Ord. 366, passed 7-16-79) Penalty, see § 70.99

§ 70.99 PENALTY.

Any person, firm, or corporation who violates any of the provisions of this traffic code shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not more than $200 for each offense. Each day's continuance shall constitute a separate and distinct offense for each of those days.

CHAPTER 71: TRAFFIC RULES

Section

General Provisions

71.01 Traffic-control devices
71.02 Driving over fire hose
71.03 Following closely or delaying fire apparatus
71.04 Negligent collisions
71.05 Speed limits
71.06 Driving on private or public parking lots; license required

Equipment and Loads

71.20 Mufflers
71.21 Maximum allowable weight of concrete trucks allowed on roadways

GENERAL PROVISIONS

§ 71.01 TRAFFIC-CONTROL DEVICES.

(A) Preexisting devices. All traffic-control signs, signals, devices and markings placed or erected prior to the adoption of this section and in use for the purpose of regulating, warning or guiding vehicles or pedestrian 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 chapter or state law.

(B) Prima facie evidence. Evidence that any traffic-control sign, signal, device, or marking was actually in place on any street shall constitute prima facie evidence that the same was installed pursuant to the authority of this section and of the ordinance directing the placement or installation of such sign, signal, device or marking.

(C) Installation.

(1) Board of Commissioners to authorize by ordinance. The Board of Commissioners hereby authorizes the Public Works Director to install upon, over, along or beside any highway, street or alley, all necessary signs, signals, devices and markings based on information deemed necessary by the Public Works Director, including consultation with the Texas Manual on Uniform Traffic Control Devices.

(2) Report to be filed with City Clerk. Whenever the city has placed, erected or installed any official traffic-control sign, signal, device, or marking at any location in the city or has caused the same to be done in obedience to this section, the Director of Public Works shall thereafter file a report with the City Clerk in writing stating the type of traffic-control sign, signal, device or marking and when and where the same was erected and installed. The City Clerk shall file and maintain such report among the official papers of the office of the City Clerk.

(D) Traffic Control Device Inventory. A list of traffic control devices shall be maintained by the City Clerk and shall be referred to as the Traffic Control Device Inventory.
(Ord. 950, passed 8-19-19)

§ 71.02 DRIVING OVER FIRE HOSE.

It is unlawful for any person to drive an automobile or other vehicle or to drive any animal over any fire hose in the city.
(Ord. 121, passed 2-28-23; Am. Ord. 128, passed l-7-24) Penalty, see § 70.99

§ 71.03 FOLLOWING CLOSELY OR DELAYING FIRE APPARATUS.

(A) Upon the approach of any vehicle or apparatus of the Fire Department of this city answering an alarm of fire, the driver of any vehicle other than a vehicle of the aforesaid Fire Department (and members of the Voluntary Fire Department) shall drive as closely as possible to the right hand curb and stop, and shall not follow within 600 feet after the vehicle or apparatus of the Fire Department has passed. No vehicle, except by direction of the Fire Chief, or other officer of the Fire Department, shall approach or park within 600 feet of a fire at any time. The sounding of the fire alarm of the city shall constitute notice of the probable approach of a vehicle of the Fire Department.

(B) All vehicles pertaining to the Fire Department of the city shall have prior right-of-way upon all the streets and avenues of the city. It shall be unlawful for any person, owner, driver, chauffeur, engineer, conductor, or any other person in charge or control of any buggy, wagon, carriage, automobile, engine, or any other vehicle propelled by whatsoever motive power, to carelessly, wantonly, willfully, or maliciously delay any fire apparatus of this city in going to or coming from any supposed or actual fire.
(Ord. 170, passed l-6-30) Penalty, see § 70.99

§ 71.04 NEGLIGENT COLLISIONS.

(A) For the purpose of this section, "STATIONARY" shall mean unmoving, whether stopped, or placed temporarily or permanently.

(B) No person driving, operating, or in charge of any motor vehicle, shall, by negligence cause or suffer or permit the same to come in collision with any stationary vehicle or moving vehicle of any nature whatever, or with any street sign, street post, water plug, mail box, or any other stationary obstacle or object whatever, in any alley, avenue, highway, or other public place whatever, in the city. Violation of this section shall be known as the offense of negligent collision.

(C) Negligence for the purposes of this section shall not be ordinary negligence. Negligence for the purposes of this section is defined as the following conduct:

(1) Failure to keep proper lookout when such failure is so grossly flagrant as to cause, and be the sole cause of, a collision that results in injury to person or property.

(2) Failure to make timely application of brakes when such failure is so grossly flagrant as to cause, and be the sole cause of, a collision that results in injury to person or property.

(3) Failure to control direction of movement of the vehicle when such failure is so grossly flagrant as to cause, and be the sole cause of, a collision that results in injury to person or property.

(D) Sole cause shall mean only cause except that proof of another or other negligent acts by a person charged with violation of this section, which acts were contributing causes of the collision, shall not be a defense and shall not be proof that the act complained of was not the sole cause.
(Ord. 362, passed 11-20-78) Penalty, see § 70.99

§ 71.05 SPEED LIMITS.

(A) Findings. The highways, streets or alleys, or portions thereof, identified in subsection (B) below are hereinafter referred to in this section as "Designated Roadways." Based upon the results of an engineering and traffic investigation with respect to the Designated Roadways, the Board of Commissioners of the city finds that the *prima facie* speed limits established by Texas Transportation Code § 545.352 as they apply to the Designated Roadways are unreasonable and unsafe.

The Board of Commissioners of the city further finds that the speed limits established by it in division (B) below are reasonable and safe *prima facie* speed limits for the Designated Roadways. Accordingly, the Board of Commissioners of the city in accordance with Texas Transportation Code § 545.356, hereby alters the *prima facie* speed limits established by Texas Transportation Code § 545.352 for the Designated Roadways as provided in subsection (B) below.

(B) *Prima facie* speed limits. A speed in excess of the limits established by this subsection is not reasonable and prudent and is unlawful. The maximum reasonable and prudent speed and the highway, street or alley or portion thereof to which it applies is as follows:

HIGHWAY, STREET OR ALLEY	PORTION OF HIGHWAY, STREET OR ALLEY	SPEED LIMIT (MILES PER HOUR)
Ameron Rd.	North bound traffic from 900 Ameron Rd. to its intersection with Kramer Rd. but excluding those areas in marked school zones during those hours in which a lesser speed limit is required for such school zones	35
Ameron Rd.	South bound traffic from 300 Ameron Rd. to its intersection with the Daniel's Rd. "Y"	45
Ameron Rd.	North and south bound from the south end of Ameron Rd. to 2,075 feet north on Ameron Rd.	35
Bishop Rd.	From 1218 Bishop Rd. to its intersection with Daniels Rd. for all lanes of traffic in either direction	35
Davey Drive	From the intersection of East Williams Drive to the intersection of East Kramer Road; the 500 to 700 block of Davey Drive	25
FM 369	North bound from south city limits (mp. 1.860) to 9,820 feet north to SH 240 (mp. 0.00) 1.860 miles	45
FM 369	South bound from SH 240 (mp. 0.00) to 9,820 feet south to south city limits (mp. 1.860) 1.860 miles	45

HIGHWAY, STREET OR ALLEY	PORTION OF HIGHWAY, STREET OR ALLEY	SPEED LIMIT (MILES PER HOUR)
Gresham Rd. truck route)	West bound traffic from Gresham Rd. intersection with East Third St. to the city limits	35
FM 3429	North and south bound from the north end of FM 3429 to 554 feet south on FM 3429	45
Kramer Rd.	From Kramer Rd. intersection with Sugarbush St. to Farm to Market Rd. 369 for all lanes of traffic in either direction	35
Peyton St.	Its entire length, from beginning to end, for all lanes of traffic in either direction	20
Preston Rd.	Northwest and southeast bound from the intersection of Ameron and Preston Rds. to 1,000 feet west on Preston Rd.	35
Preston St.	North bound traffic from Preston Rd. intersection with Ameron Rd. to intersection with Jan Lee St.	35
School zones marked)	Within the marked areas	20
Sycamore Dr.	From Sycamore St. intersection with Patricia St. to intersection with Ashton Rd. for all lanes of traffic in either direction	35
Williams Dr.	From Williams Dr. intersection with the County Rd., for all lanes of traffic in either direction.	20

(C) Offense; penalty. A person commits an offense if the person operates a motor vehicle on a Designated Roadway or any portion thereof at a speed greater than that which is lawful pursuant to subsection (B) above. A person convicted of an offense under this section shall be punished by a fine of not less than $1 or more than $200.

(D) Altered speed limits effective upon posting of signs. A *prima facie* speed limit established by this section shall be effective when the city erects signs giving notice of the such speed limit.
(Ord. 222, passed 9-27-54; Am. Ord. 605, passed 9-18-00; Am. Ord. 632, passed 12-17-01; Am. Ord. 677, passed 6-21-04; Am. Ord. 857, passed 6-16-14)

§ 71.06 DRIVING ON PRIVATE OR PUBLIC PARKING LOTS; LICENSE REQUIRED.

No person shall drive a motor vehicle on a private or public parking lot without a current valid driver's license issued by the State Department of Public Safety.
(Ord. 362, passed 11-20-78) Penalty, see § 70.99

EQUIPMENT AND LOADS

§ 71.20 MUFFLERS.

It shall be unlawful for any person to operate, run, or drive any automobiles, trucks, motorcycles, or other motor vehicles with an open muffler along the road, street, or driveway within the limits of the city.
(Ord. 56, passed 9-15-19) Penalty, see § 70.99

§ 71.21 MAXIMUM ALLOWABLE WEIGHT OF CONCRETE TRUCKS ALLOWED ON ROADWAYS.

Vehicles used exclusively to transport ready-mix concrete may be operated upon the public roads and highways under the jurisdiction of the city with a tandem axle load not to exceed 36,000 pounds, a single axle load not to exceed 12,000 pounds, and a gross load not to exceed 48,000 pounds.
(Ord. 346, passed 9-19-77) Penalty, see § 70.99

Cross-reference:
Load restrictions, see Ch. 73, Schedule II

CHAPTER 72: STOPPING, STANDING, AND PARKING

Section

72.01 Manner of parking
72.02 Certain vehicles prohibited from parking
72.03 Prohibiting certain vehicles and trailers from parking excessive periods of time
72.04 Overnight parking
72.05 Double parking
72.06 Handicapped parking
72.07 Parking of trucks and motor vehicles used in transportation of gasoline or liquified petroleum gases prohibited
72.08 Regulating residential parking
72.09 Presumption that owner of vehicle illegally parked same

§ 72.01 MANNER OF PARKING.

Any person parking an automobile or a motor vehicle on Third Street in the city limits shall park such automobile or motor vehicle parallel to the curb on that street, and angle, or angular, parking is hereby prohibited.
(Ord. 300, passed 8-18-69) Penalty, see § 70.99

§ 72.02 CERTAIN VEHICLES PROHIBITED FROM PARKING.

No vehicle with or without trailers, exceeding nine feet in height, 26 feet in length, or seven feet eight inches in width shall be parked for any period of time, except temporarily for the purpose of loading or unloading goods, furniture, or merchandise on any public street or alley.
(Ord. 363, passed l-15-79) Penalty, see § 70.99

§ 72.03 PROHIBITING CERTAIN VEHICLES AND TRAILERS FROM PARKING EXCESSIVE PERIODS OF TIME.

No person shall park on any city street or alley for a period longer than 72 continuous hours any trailer, semi-trailer, boat-trailer, trailer house, or other nonmotorized device or equipment designed or intended to be towed upon the public streets by means of attachment to a motor vehicle or other self-propelled vehicle or equipment; nor any motorized, self-propelled motor home or other motor vehicle containing or intended to contain permanently installed sleeping facilities or human sanitary treatment or disposal facilities.
(Ord. 363, passed l-15-79) Penalty, see § 70.99

§ 72.04 OVERNIGHT PARKING.

No person shall leave standing or parked in any public street, alley, or other public places any vehicle or automobile of any

character which is unable to operate, unattended for a longer continuous period of time than 24 hours.
(Ord. 363, passed 1-15-79) Penalty, see § 70.99

§ 72.05 DOUBLE PARKING.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "ALL STREETS." Public streets, public highways, thoroughfares, and alleyways and designated by the recorded plat of the city, whether those streets are marked by street signs or not.

(2) "VEHICLE." All automobiles, trucks, tractors, or any form of self-propelled mechanism, whether mounted on wheels, trucks, or tracks.

(B) It shall be unlawful to double park, that is to park in the second line of traffic, counting left from the curb on Third Street in the city between Avenue D and the railroad tracks, and on Avenue C from Second Street to Fourth Street.

(C) A violation of this section shall be charged against the operator of any vehicle so parked in a manner in conflict with this section, regardless of the ownership of that vehicle.
(Ord. 230, passed 12-12-55) Penalty, see § 70.99

§ 72.06 HANDICAPPED PARKING.

(A) A person commits an offense if the person is neither temporarily or permanently disabled nor transporting a temporarily or permanently disabled person and parks a vehicle with such special device or displaying a disabled person identification card in a parking space or parking area designated specifically for the disabled by a person who owns or controls private property used for parking.

(B) A person commits an offense if the person parks a vehicle neither displaying the special device nor displaying a disabled person identification card in a parking space or parking area designated specifically for the disabled by a person who owns or controls private property used for parking.

(C) A person commits an offense if the person parks a vehicle so that the vehicle blocks an access or curb ramp or any other architectural improvement designed to aid the disabled.

(D) A person commits an offense if he lends an identification card issued to him under this act to a person who uses the identification card in violation of this section.

(E) The special device and disabled person identification card referenced in this section refers to the special devices and identification cards provided by the State Department of Highways and Public Transportation in accordance with Art. 6675a - 5e.1, Sec. l(a), V.T.C.S.

(F) A parking space or area designated for the disabled is one which is marked by:

(l) An international wheelchair emblem clearly painted on the parking space; or

(2) A vertical sign four feet above the space bearing the international wheelchair emblem. If several disabled spaces are adjacent to each other, the spaces may be designated by a vertical sign five feet above each end space bearing the international wheelchair emblem and an arrow showing the designation of adjacent spaces.

(G) Any parking space or area designated in accordance with division (F) above shall constitute prima facie evidence that the owner or controller of a private parking lot has designated such space for disabled parking.

(H) An offense committed under this section shall be a Class C misdemeanor.
(Ord. 424, passed 12-16-85) Penalty, see § 70.99

§ 72.07 PARKING OF TRUCKS AND MOTOR VEHICLES USED IN TRANSPORTATION OF GASOLINE OR LIQUIFIED PETROLEUM GASES PROHIBITED.

It shall hereafter be unlawful for any person, firm, or corporation, to park or to permit to be parked upon any street, alley, or other public place of the city, any truck or other motor vehicle used in transporting gasoline or liquified petroleum gases, except where such trucks or motor vehicles are actually engaged in unloading gasoline or liquified petroleum gases at a filling station or other place where such gasoline or liquified petroleum gases are sold at retail or at a place where same is being lawfully used for domestic or commercial purposes.
(Ord. 242, passed 3-23-60) Penalty, see § 70.99

§ 72.08 REGULATING RESIDENTIAL PARKING.

(A) Location. A minimum of 75% of residential home occupants/owners of a standard street block within the city limits of

the City of Burkburnett must sign a petition to regulate parking on their block and present it to the City Secretary. In addition, a brief description of the parking problem for that particular block must be attached.

(B) Parking regulation. The City Manager will consider the petition and/or take action to regulate the parking for the affected area in accordance with City Council approved guidelines. The regulated parking will be a two hour parking zone during standard school hours (8:00 a.m. to 3:30 p.m.) Monday though Friday.

(C) Enforcement. The Police Department of the City of Burkburnett will have the responsibility and authority to enforce any regulated parking areas in accordance with previously established motor vehicle laws and ordinances. All published parking fines and penalties would be applicable to this section. This regulated parking zone will not be enforced on non-school days. Additionally, affected residents may, with prior coordination with the City of Burkburnett Police Department waive this parking regulation for extenuating circumstances, i.e., funerals, receptions, etc. for a specified period of time.
(Ord. 564, passed 8-17-98)

§ 72.09 PRESUMPTION THAT OWNER OF VEHICLE ILLEGALLY PARKED SAME.

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 that vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed it at the point where and during the time in which the violation occurred.
(Ord. 899, passed 6-20-16)

CHAPTER 73: TRAFFIC SCHEDULES

Schedule

I. One-way streets
II. Load restrictions

SCHEDULE I. ONE-WAY STREETS.

The following streets and alleys are hereby established and designated as one-way streets or alleys, and it shall be unlawful for any person to operate a vehicle on said streets or alleys in a direction other than that permitted by this schedule:

STREET OR ALLEY	BETWEEN	DIRECTION	HOURS	ORD. NO.	DATE
Ave. F	Cottonwood St. and College St.	Northward	Between 8:00 a.m. and 4:30 p.m. on days when the public schools are in session	345	8-22-77
East College St.	Ave. F and South Ave. D	Westward	Between 8:00 a.m. and 4:30 p.m. on days when the public schools are in session	686	2-21-05
Alley behind Chaparral Circle	Entire alley located behind Chaparral Circle	Southward by entering at the north intersection of the alley with Chaparral St. and exiting at the south intersection of the alley with Chaparral St.	At all times	686	2-21-05

STREET OR ALLEY	BETWEEN	DIRECTION	HOURS	ORD. NO.	DATE
Alley between 3rd and 4th Streets	North Avenue D and North Avenue C	Westward	At all times	692	3-21-05

(Am. Ord. 934, passed 5-21-18) Penalty, see § 70.99

SCHEDULE II. LOAD RESTRICTIONS.

(A) (1) It shall be unlawful to operate any vehicle on the following streets in excess of the weight stated:

STREET	DESCRIPTION	GROSS WEIGHT	ORD. NO.	DATE
Jewel St.	From Bishop to Sheppard Rd.	4,000 pounds	448	5-16-88
Kiowa St.	From Apache to Preston	4,000 pounds	418	6-17-85
Mohawk St.	From Apache to Coulter	4,000 pounds	418	6-17-85
Sioux St.	From Pawhuska to Red Fox	4,000 pounds	418	6-17-85
Tejas St.	From Apache to Preston	4,000 pounds	418	6-17-85
Third St.	From Avenue B to Avenue D	One ton	287	6-3-68

(2) It shall be unlawful to operate a motor vehicle in excess of such weight on the above - described streets, except for the purpose of making delivery or picking up a load, in which case that vehicle may be driven on such street for not more than the minimum distance necessary for such purpose.

(B) Penalty. Any person or persons, firm, or corporation who violates any of the provisions of this schedule or who fails to comply with this schedule shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not less than $25 nor more than $200 for each offense and each day's continuance of a failure to comply therewith shall constitute a separate and distinct offense for each of said days. (Ord. 448, passed 5-16-88)

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CHAPTER 74: PARKING SCHEDULES

Schedule

I. Restricted parking
II. Limited parking

SCHEDULE I. RESTRICTED PARKING.

The following vehicles are restricted from parking on the following streets.

STREET	DESCRIPTION	ORD. NO.	DATE
Preston St.	Any truck over 1/2-ton	313	5-22-72

Penalty, see § 70.99

SCHEDULE II. LIMITED PARKING.

Parking is limited as described below on the following streets:

STREET	BETWEEN	SIDE	TIME LIMIT	ORD. NO.	DATE
Avenue C	Third St. to alleyway between Second St. and Third St.	East	15 minutes	230	12-12-55

Penalty, see § 70.99

CHAPTER 75: GOLF CARTS FOR CHRISTMAS PARCEL DELIVERY

Section

75.01 Definitions
75.02 Allowable period of use
75.03 Location restrictions
75.04 Required equipment
75.05 Operators

75.99 Penalty

§ 75.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ALLOWABLE USERS." An entity whose primary business is the delivery of parcels.

"GOLF CART." As assigned by Texas Transportation Code § 502.001.

"PUBLIC HIGHWAY." As assigned by Texas Transportation Code § 502.001.
(Ord. 830, passed 11-19-12)

§ 75.02 ALLOWABLE PERIOD OF USE.

Golf carts operated by allowable users may be used on public highways for Christmas parcel delivery from 12:00 a.m. on November 15 to 11:59 p.m. on December 31 of each year.
(Ord. 830, passed 11-19-12)

§ 75.03 LOCATION RESTRICTIONS.

Golf carts may be operated on public highways with a speed limit of not more than 35 mph.
(Ord. 830, passed 11-19-12)

§ 75.04 REQUIRED EQUIPMENT.

Golf carts used for Christmas parcel delivery shall be equipped with headlamps, tail lamps, reflectors, a parking brake, and mirrors. All golf carts shall be clearly marked with the name of the company delivering parcels.
(Ord. 830, passed 11-19-12)

§ 75.05 OPERATORS.

Golf carts shall only be operated by allowable users with a valid driver's license that authorizes the person to operate a motor vehicle on public highways. Operators shall obey all state and local traffic laws.
(Ord. 830, passed 11-19-12)

§ 75.99 PENALTY.

Any person, or persons, or firm, or corporation who violates any of the provisions of this chapter or who fails to comply with this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum of not less than $25 and not more than $200 for each offense and each day's continuance of failure to comply therewith shall constitute a separate and distinct offense for each day.
(Ord. 830, passed 11-19-12)

CHAPTER 76: TOWING SERVICES AND VEHICLE IMPOUNDS

Section

76.01 Authority to impound vehicles for no insurance or no valid driver's license
76.02 Establish non-consent towing fees and storage fees

§ 76.01 AUTHORITY TO IMPOUND VEHICLES FOR NO INSURANCE OR NO VALID DRIVER'S LICENSE.

(A) A police officer is authorized to remove or caused the removal of a motor vehicle from a public place to a place designated by the Chief of Police when the motor vehicle is involved in an accident or stopped by a police officer for an alleged violation of a city or state traffic law or other law applicable to the operation of a motor vehicle on the roadway and the motor vehicle's owner or operator fails to show:

(1) Evidence of financial responsibility as required under Texas Transportation Code, Chapter 601; or

(2) A valid driver's license appropriate for the type of vehicle operated by the operator of the motor vehicle. A suspended license is not considered to be valid.

(B) Prior to impoundment of the motor vehicle for failure to show evidence of financial responsibility, the police officer shall verify the status of financial responsibility by utilizing or obtaining the utilization of a verification program established pursuant to Texas Transportation Code, Chapter 601, Subchapter N.

(C) Prior to impoundment of the motor vehicle for failure to show a valid driver's license appropriate for the type of vehicle operated by the operator of the motor vehicle, the police officer shall verify the status of licensure by utilizing or obtaining the utilization of a database of valid motor vehicle licenses.
(Ord. 912, passed 1-16-17)

§ 76.02 ESTABLISH NON-CONSENT TOWING FEES AND STORAGE FEES.

In addition to the permissible fees charged by the towing company for towing a vehicle, a vehicle impound fee of $20 for each vehicle taken into the control and custody of the Police Department or its duly authorized agent or operator is hereby fixed as the charge for initiation of a vehicle impoundment, which shall be collected by the Police Department before the impounded vehicle is released.
(Ord. 912, passed 1-16-17)

TITLE IX: GENERAL REGULATIONS

Chapter

90. JUNKED VEHICLES AND JUNKYARDS

91. ANIMALS

92. CABLE TELEVISION

93. EMERGENCY MANAGEMENT

94. FIRE PREVENTION; FIREWORKS

95. FOOD REGULATIONS; MILK

96. NUISANCES

97. PARKS AND RECREATION

98. PUBLIC LIBRARY

99. STREETS AND SIDEWALKS

100. REGULATION OF PUBLIC POOLS

101. CHILD SAFETY AREAS

102. SMOKING IN PUBLIC PLACES

103. STANDING AND FLOWING WATER

104. NETWORK NODES AND NODE SUPPORT POLES

CHAPTER 90: JUNKED VEHICLES AND JUNKYARDS

Section

Abatement and Removal of Junked Vehicles

90.01 Definitions and interpretation
90.02 Declaration of nuisance; exceptions
90.03 Administration of abatement and removal procedures
90.04 Notice prior to abatement and removal by the city
90.05 Hearing procedures
90.06 Post hearing requirements
90.07 Interference with Code Enforcement Officer

Regulation of Motor Vehicle Junkyards

90.50 Motor vehicle junkyards licensing
90.51 Operating conditions for motor vehicle junkyards or motor vehicle salvage yards

90.98 Violations; injunctive relief
90.99 Penalty

ABATEMENT AND REMOVAL OF JUNKED VEHICLES

§ 90.01 DEFINITIONS AND INTERPRETATION.

(A) As used in this subchapter, the term "JUNKED VEHICLE" shall have the meaning assigned to it by Texas Transportation Code § 683.071, as amended.

(B) As used in this subchapter, the term "INTERESTED PARTY" shall mean and refer to any Code Enforcement Officer of the city or any of the persons or firms entitled to notice pursuant to § 90.04(F).

(C) This subchapter shall be interpreted and administered in a manner consistent with Texas Transportation Code §§ 683.074, et seq., as those sections may be amended, from time to time. Should any provision of such state law be amended so that the procedures or requirements set forth in this chapter are inconsistent with such state law, then this chapter shall be interpreted and administered in compliance with such amended procedure or requirement.
(Ord. 693, passed 5-4-05)

§ 90.02 DECLARATION OF NUISANCE; EXCEPTIONS.

(A) Any junked vehicle or part of a junked vehicle located on private or public property or a public right-of-way within the corporate limits of the city is hereby declared a public nuisance.

(B) The procedures set forth in this subchapter shall not apply to a junked vehicle or vehicles that are, in fact, a vehicle or vehicles of the type described in Texas Transportation Code § 683.077, as amended.
(Ord. 693, passed 5-4-05) Penalty, see § 90.99

§ 90.03 ADMINISTRATION OF ABATEMENT AND REMOVAL PROCEDURES.

(A) Officers administering procedures; authority. The procedures in this section shall be administered by a code enforcement official of the city who is a regularly salaried, full-time employee of the city except that any person may be authorized to remove a nuisance.

(B) Authority of Code Enforcement Officers. A Code Enforcement Officer of the city may enter private property for the following purposes:

(1) To examine a vehicle which such officer has reason to believe is a junked vehicle and a public nuisance, as defined by this chapter, to obtain information to determine if a vehicle is a junked vehicle and a public nuisance or to identify an alleged junked vehicle; or

(2) Following the entry of an order finding that a vehicle is a junked vehicle and a public nuisance and ordering its abatement or removal, to remove or direct the removal of the nuisance.
(Ord. 693, passed 5-4-05)

§ 90.04 NOTICE PRIOR TO ABATEMENT AND REMOVAL BY THE CITY.

When a junked vehicle or part of a junked vehicle which is a public nuisance is discovered, or brought to the attention of, a code enforcement official of the city, such official shall give written notice (sometimes hereinafter referred to as the "original notice") which shall conform to the following requirements:

(A) It shall describe the nature of the nuisance as being a junked vehicle or vehicles;

(B) It shall state that the nuisance must be abated and removed not later than the tenth day after the date on which the notice is personally delivered or mailed; and

(C) It shall state that a public hearing will be held before the Municipal Judge in the city's Municipal Court to determine the allegations in the notice and a remedy to be imposed if the allegations are found to be true; and

(D) It shall state that the hearing will be held:

(1) At a specified date and time in the city's Municipal Court; which date and time shall not be earlier than the eleventh day after the date of the service of the notice; and

(2) If any notice is returned undelivered and the hearing date specified in the notice is within 11 days from the date the notice is returned, then the hearing will be continued to the next available date and time on the Municipal Court's docket following expiration of 11 days from the date the notice is returned and notice of the date and time of the continued hearing will be posted either on the vehicle or vehicles alleged to be a public nuisance or in the place specified for public notices at City Hall; and

(E) It shall state that any request for a hearing at a date or at a time other than that specified in the notice must be made not later than the tenth day after the date on which the notice is personally delivered or mailed; and

(F) It shall be personally delivered or sent by certified mail with a five-day return requested to:

(1) The last known registered owner of the nuisance;

(2) Each lien holder of record of the nuisance; and

(3) The owner or occupant of:

(a) The property on which the nuisance is located; or

(b) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way; or

(G) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
(Ord. 693, passed 5-4-05)

§ 90.05 HEARING PROCEDURES.

(A) Applicable procedures. Hearings under this subchapter to determine whether a vehicle or vehicles alleged to be a public nuisance is, in fact, a public nuisance, as defined by this subchapter and state, shall be conducted in accordance with the following procedures:

(1) Hearing to be held before Municipal Judge in Municipal Court. All hearings shall be before the city's Municipal Judge at the Municipal Court unless otherwise ordered by the Municipal Judge.

(2) Scheduling of hearing. The hearing shall be held at the date, time and place specified in the original notice unless: (i) the Municipal Judge continues the hearing to a different date, time and place upon the request of an interested party or (ii) a continued hearing date is required because a notice is returned undelivered and the hearing in the original notice is within 11 days of the date of the return. A rescheduled hearing shall be set not less than seven days from the date of the hearing in the original notice.

(3) Notice of continued hearing. If a hearing is rescheduled from the date and time specified in the original notice, notice of the date, time and place of the rescheduled hearing shall be given in accordance with the following rules:

(a) Posting of notice of continued hearing. If the hearing is being rescheduled because one or more of the original notices has been returned undelivered and the hearing specified in the original notice is within 11 days of the date the original notice is returned undelivered, the Code Enforcement Officer handling the matter shall obtain a hearing date and time before the Municipal Court on the

next available docket of the Municipal Court. Such officer shall prepare a revised notice in accordance with the requirements of § 90.04 above and if the post office address of the interested party whose notice has been returned undelivered is unknown: (i) such officer shall place the revised notice on the nuisance if he or she has physical access to the nuisance or (ii) if such officer does not have access to the nuisance such officer shall post the revised notice in the place specified for public notices at City Hall.

(b) Other interested parties entitled to notice of continued hearing. The following interested parties shall be entitled to notice of a continued hearing:

1. One who appears at the hearing scheduled in the original notice;

2. One who contacts the Municipal Court or Code Enforcement Officer regarding the vehicle or vehicles the subject of the original notice by written communication or electronic mail on or before the date set for the hearing specified in the original notice; and

3. The Code Enforcement Officer handling the matter.

(c) Permissible methods of giving notice of continued hearing. Notice of a continued hearing may be given in any one or more of the following methods:

1. In person to a person who appears before the Municipal Court or the Code Enforcement Officer;

2. In writing by certified mail with five day return receipt requested or by facsimile transmission; or

3. By electronic mail.

(B) Issue to be determined. At the hearing, the Municipal Judge shall determine whether the vehicle alleged to be a public nuisance is, in fact, a public nuisance as defined by this chapter and state law. At the hearing, the junked motor vehicle is presumed to be inoperable unless demonstrated otherwise by the owner.

(C) Contents of order upon determination that a public nuisance exists. If a determination is made that the alleged nuisance is, in fact, a public nuisance, the Municipal Judge shall enter an order, pursuant to Texas Transportation Code § 683.074(b)(c), reciting such finding and ordering the abatement or removal of the nuisance by a date certain. The order shall also provide for the removal or abatement of the nuisance by the city or a contractor retained by the city in the absence of compliance with the order by the owner or other person interested in the nuisance by the date specified in the order. If the information is available at the location of the nuisance, the order must include the vehicles: description, vehicle identification number and license plate number.
(Ord. 693, passed 5-4-05)

§ 90.06 POST HEARING REQUIREMENTS.

(A) Notice to Texas Department of Transportation. Not later than the fifth day following the date that a vehicle found to be a public nuisance under this subchapter is removed, a Code Enforcement Officer of the city shall give notice to the Texas Department of Transportation identifying the vehicle or part of the vehicle removed.

(B) Prohibition on reconstruction. A vehicle found to be a public nuisance under this subchapter may not be reconstructed or made operable after its removal.
(Ord. 693, passed 5-4-05)

§ 90.07 INTERFERENCE WITH CODE ENFORCEMENT OFFICER.

It shall be unlawful for any person to interrupt, disrupt, impede, or otherwise interfere with a Code Enforcement Officer of the city who is performing any duty or exercising any authority imposed or granted by law in connection with the enforcement of the provisions of this chapter. An offense under this section shall be punishable by a fine up to $200 for each offense.
(Ord. 693, passed 5-4-05) Penalty, see § 90.99

REGULATION OF MOTOR VEHICLE JUNKYARDS

§ 90.50 MOTOR VEHICLE JUNKYARDS LICENSING.

(A) City license required. No person may operate a motor vehicle junkyard or motor vehicle salvage yard unless such person first obtains a license to operate such facility from the city.

(B) License requirements. A person seeking a license to operate a motor vehicle junkyard or motor vehicle salvage yard shall submit a written application for such license on a form approved by the city and shall provide any other information required for the city to determine compliance with these requirements. Specifically, the person applying for a license shall sign a form consenting to a criminal background check and shall provide proof of insurance. The conditions for the issuance of a license are:

(1) That the person have a currently valid and unrestricted license to operate as a salvage vehicle dealer issued by the State of Texas and that there be no pending complaints or proceedings to revoke said license;

(2) That the person pay an application fee of $50 to defray the cost of processing the application;

(3) That the person currently be in compliance with all operating conditions set forth in § 90.51 of this Code or, if no operations have been commenced, the applicant must certify that he or she has been provided with a copy of the operating conditions, that he or she understands such operating conditions and must sign a statement that all operations by the applicant will be in compliance with such operating conditions if a license is issued; and

(4) That the person not have been convicted of any offense under the laws of the United States or any state or country in the nature of a felony or misdemeanor involving moral turpitude, such as theft.

(C) Expiration of license; renewal. A license issued under this subchapter expires on the first anniversary date of its issuance. The person holding a license must renew the license each year and comply with the license requirements set forth above.

(D) Nontransferability. The license issued under this subchapter is not transferable.

(E) Motor vehicle junkyard or motor vehicle salvage yard defined. As used in this subchapter, the term or terms "MOTOR VEHICLE JUNKYARD" or "MOTOR VEHICLE SALVAGE YARD" shall mean any location within the city which: (1) stores more than two motor vehicles which are inoperative or not currently registered, and (2) routinely sells parts from any motor vehicles which are inoperative or not currently registered or (3) is the place of business of any person who is a licensed motor vehicle salvage dealer, as that term is defined under state law. Wrecker service companies contracted by the city to abate junk vehicles are exempted from this definition.
(Ord. 693, passed 5-4-05) Penalty, see § 90.99

§ 90.51 OPERATING CONDITIONS FOR MOTOR VEHICLE JUNKYARDS OR MOTOR VEHICLE SALVAGE YARDS.

A person operating a motor vehicle junkyard or motor vehicle salvage yard shall, at all times, comply with the following conditions:

(A) Location. The yard shall only be located in a zone in which a motor vehicle junkyard or salvage yard business is permitted by the city's Zoning Ordinance and shall not be located within 1,000 feet of the right-of-way of public street, state or federal highway, school, hospital or medical clinic or a residence.

(B) Insurance. Maintain general commercial liability insurance in an amount not less than $300,000 and includes coverage for liabilities related to the presence of hazardous wastes or products and environmental hazards.

(C) Compliance with laws. Comply with all applicable federal and state laws and regulations applicable to such operations including those designed to insure environmental quality and those relating to highway beautification.

(D) Fencing requirement. Each motor vehicle junkyard in the city shall be completely surrounded by a solid barrier fence or structure at least eight feet high. The fence must be painted a natural earth tone color and may not have any sign appear on its surface other than a sign indicating the business name of the licensed operator of the yard.

(E) Height and access requirements. No motor vehicles, or parts thereof, shall be piled or stacked in any such motor vehicle junkyard in any manner as to exceed six feet in height, or 625 square feet in floor or lot area. An aisle of at least four feet shall be maintained at all times between piles or stacks of motor vehicles or parts thereof, in such a manner as to allow free access on the part of the Fire Department of the city.

(F) Gas tanks to be drained. All gasoline shall be drained from the gasoline reservoirs of all motor vehicles stored or kept on the premises of any such motor vehicle junkyard, unless such motor vehicles are in such state of repair as to enable them to be removed from the premises under their own power.
(Ord. 693, passed 5-4-05) Penalty, see § 90.99

§ 90.98 VIOLATIONS; INJUNCTIVE RELIEF.

(A) Violation- No license. It is unlawful for any person, firm or corporation to establish, operate or maintain a motor vehicle junkyard or salvage yard without procuring a license as hereinabove provided; and each day a motor vehicle junkyard or salvage yard is operated or maintained without such license shall constitute a separate offense.

(B) Violation – Non-compliance with operating conditions. It is unlawful for any person, firm or corporation to operate or maintain a motor vehicle junkyard or salvage yard in violation of any of the operating conditions set forth in this subchapter; and each day a motor vehicle junkyard or salvage yard is operated or maintained in violation of such operating conditions shall constitute a separate offense.

(C) Injunctive relief. The city may also bring suit for injunction against any person, firm or corporation that violates or threatens to violate any of the provisions of this chapter, in order to prevent a continued violation or such threatened violation.
(Ord. 693, passed 5-4-05)

§ 90.99 PENALTY.

Any person, firm or corporation that violates, disobeys, neglects or refuses to comply with, or that resists the enforcement of any of the provisions of this subchapter, shall be fined not less than $10 nor more than $500 for each offense.
(Ord. 693, passed 5-4-05)

CHAPTER 91: ANIMALS

Section

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§ 91.01 DEFINITIONS.

When used herein, the following words and phrases shall have the meaning ascribed to them below:

"ANIMAL(S)." Any living dumb creature or creatures and shall include dogs, cats, fowl, livestock and wild animals.

"ANIMAL RECLAIM CENTER." A facility designated by the city as the location to be used for keeping animals impounded or quarantined under this chapter or applicable law.

"AT LARGE." Any animal not restrained by some physical means to the premises of the person in possession of the animal. However, an animal shall not be considered at large when held and controlled by some person by means of a leash or chain of proper strength and length to control the actions of the animal, fowl or livestock.

"FOWL." Birds of any kind including chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl, emu and other domestic feathered creatures but excluding parakeets, canaries, or other similar small sized birds or any exotic birds, such as parrots provided they be continuously confined within the residence or business of the person in possession of same and are non-domestic feathered creatures.

"KENNEL." A kennel is any lot, building, structure, enclosure or premises wherein five (5) or more dogs and/or five (5) or more cats, or five (5) or more dogs and cats in the aggregate, four (4) months of age or older, are kept or maintained, whether for profit or pleasure but shall not include a veterinary hospital or pet shop.

"LIVESTOCK." Horses (all equine species including mules, donkeys and jack asses); cows (all bovine species); sheep (all ovine species); llamas; goats (all caprine species); and pigs (all swine species).

"NOTICE." Written memorandum either personally delivered to the person entitled thereto or mailed by certified mail, return receipt requested, addressed to the person entitled thereto at the last-known address of the recipient.

"PERSON." Any individual, corporation organization, business trust, estate, trust, partnership, association, and any other legal entity.

"POSSESSION OF (AN/THE) ANIMAL." When any person:

(a) is the owner or has any ownership interest in an animal, or

(b) has an animal in that person's care, custody or control, including, without limitation, any person who: (i) is boarding an animal, (ii) is caring for an animal on another person's property (whether for remuneration or not), (iii) has been given the temporary use, possession or control of an animal by any other person or (iv)

provides food, shelter maintenance or care for an animal for three days or more (regardless of whether such three days are consecutive). The fact that an individual has obtained a license for a dog or a cat or has done so for such animal within five year period immediately proceeding an offense under this chapter shall be *prima facie* evidence of the fact that such individual is in possession of the animal for purposes of this chapter.

"RESIDENCE." Any place of human habitation at any time day or night, including but not limited to any residence, church, school or nursing home.

"RESTRAINED." To secure an animal by a leash or lead or confinement within the property limits of the person in possession of the animal.

"VACCINATION." An injection of rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division or an appropriate state agency and administered by a veterinarian.

"VETERINARIAN." Any person duly licensed to practice veterinary medicine by the Texas State Board of Veterinary Examiners or an equivalent authority of any other state of the United States.

"VETERINARY HOSPITAL." Any establishment maintained and operated by a veterinarian for surgery, diagnosis and treatment of animal diseases and injuries.

"WILD ANIMAL(S)." The animals described and defined in § 91.61 of this chapter.
(Ord. 562, passed 9-21-98; Am. Ord. 607, passed 12-18-00)

§ 91.02 ANIMAL CONTROL OFFICER.

(A) The Chief of Police, with the approval of the City Manager shall appoint animal control officer or officers' and fix compensation therefore. The animal control officers shall be under the supervision and control of the police department. It shall be the duty of the animal control officers to: (i) pick up and impound all animals found running at large, (ii) issue citations for any violations of the provisions of this chapter or any applicable law pertaining to animals, (iii) carry out all other duties assigned to the animal control officer under this chapter or under applicable law and (iv) to perform such duties as may be directed by the police.

(B) While the primary responsibility for the duties described in division (A) rest with the animal control officers, any police officer of the city or any peace officer of the State of Texas is hereby authorized to discharge such duties and nothing in this Chapter shall be construed to limit the authority of police officers of the City or any peace officer of the State of Texas in that regard.
(Ord. 562, passed 9-21-98)

§ 91.03 INTERFERENCE WITH ANIMAL CONTROL OFFICER WHILE PERFORMING DUTY.

A person commits an offense if the person intentionally or with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with an animal control officer performing any duty or exercising any authority imposed or granted by this chapter or applicable law pertaining to animals. The phrase "with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with" shall have the same meaning as in Section 38.15 of the Texas Penal Code and the decisions interpreting said law.
(Ord. 562, passed 9-21-98)

§ 91.04 OFFENSE; PENALTY.

Any person who fails to comply with any of the provisions of this chapter commits an offense. Any person who is found guilty of any offense under this chapter shall be fined not less than $15 and not more than $500. Each day of a violation shall be deemed a separate and complete offense.
(Ord. 562, passed 9-21-98; Am. Ord. 607, passed 12-18-00)

REGULATIONS PERTAINING TO THE KEEPING OF ANIMALS

§ 91.20 ANIMALS RUNNING AT LARGE PROHIBITED.

(A) A person commits an offense if the person in possession of any animal, including a dog, cat, horse, mule, jack, jenny, cow, sheep, or fowl, allows or permits the animal to run at large.

(B) A person in possession of a dog or cat commits an offense if such person does not restrain the dog or cat by some physical means (fence, rope, leash, or chain) at all times, on or off the premises of the person in possession thereof.

(C) A person in possession of an animal commits an offense if such person transports the animal in any open motor vehicle without securing the animal by a rope, leash, chain, carrier or other device which will prevent the animal from escaping the vehicle or being ejected from the vehicle.
(Ord. 562, passed 9-21-98; Am. Ord. 607, passed 12-18-00)

§ 91.21 REGULATIONS OF CERTAIN LIVESTOCK AND FOWL.

(A) Swine. Except as provided for Vietnamese potbellied pigs pursuant to § 91.22 of this chapter, a person commits an offense if the person is in possession of any swine species of any kind.

(B) Fowl. A person commits an offense if the person is in possession of any fowl which is not housed and maintained as follows:

(1) There must be at least ten square feet of floor or ground area dedicated exclusively for each fowl;

(2) The fowl must be fed and watered as required by § 91.80(A) of this chapter;

(3) The fowl must have access to a shelter as required by § 91.80(B) of this chapter and such shelter shall be thoroughly cleaned on a daily basis; and

(4) The shelter must be painted or whitewashed at least once every six months arid the roosting places sprayed with crude oil or some disinfectant at least once each calendar month to discourage insects, fleas, mites, mosquitoes and flies.

(C) Cows, goats, horses, sheep, or any other animal of similar species. A person commits an offense if the person is in possession of any horses, mules, donkeys or other equine species, cows, bulls or other bovine species, sheep or other bovine species, llamas, goats or other caprine species which are not housed and maintained as follows:

(1) A minimum of 400 square feet shall be provided to each such animal.

(2) Such animal(s) must be fed and watered as required by § 91.80(A) of this chapter;

(3) Such animal(s) must have access to a shelter as required by § 91.80(B) of this chapter and such shelter shall be thoroughly cleaned on a daily basis;

(4) The parcel of land and shelter where such animal(s) is/are kept shall not be nearer than 100 feet to any building occupied by any person;

(5) A suitable method shall be provided to rapidly eliminate excess water from the parcel of land where the anal(s) is/are kept; and

(6) Every parcel of land and shelter where such animal(s) is/are kept shall have a suitable manure box or container in which all manure and droppings shall be placed daily; each such box or container shall be securely sealed and otherwise protected from flies, vermin, and rodents; shall be cleaned out and disinfected at least once a week; and manure from such boxes or containers shall not be left in open stacks but removed and buried.
(Ord. 562, passed 9-21-98)

§ 91.22 VIETNAMESE POT-BELLIED PIGS.

(A) A person commits an offense if the person is in possession of: (i) more than two adult Vietnamese potbellied pigs or (ii) any Vietnamese potbellied pig which is in excess of 20 inches in height and weighing in excess of 95 pounds. A Vietnamese pot-bellied pig that is not prohibited by this chapter is classified as a domestic pet.

(B) A person commits an offense if the person is in possession of any Vietnamese potbellied pig without complying with the following requirements:

(1) The pig(s) shall be kept under restraint at all times and shall not be permitted to be at large; and

(2) A license for keeping the pig(s) shall be obtained from the city on an annual basis and as a condition to the issuance of such license the pig(s) shall be vaccinated for erysipelas annually and certificate of the vaccination from a veterinarian shall be presented to the police department at the time the license is obtained. Upon payment of the required fee and upon receipt of proof of vaccination, in accordance with this subsection, the police department shall issue a tag evidencing the fact that a Vietnamese pig meeting the requirements of this section has been licensed.
(Ord. 562, passed 9-21-98)

§ 91.23 KEEPING NOISY ANIMALS PROHIBITED.

Any animal that makes noise which unreasonably disturbs the public peace is hereby declared a public nuisance. The animal control officer shall give notice to the person in possession of an animal that makes noise which unreasonably disturbs the public peace. Such notice shall direct the person in possession of the animal to abate such disturbance by the animal and prevent its reoccurrence. A person who is given such notice commits an offense if the person falls to comply with the order and directive of the animal control officer by abating the disturbance and its reoccurrence.
(Ord. 562, passed 9-21-98)

§ 91.24 VACCINATION AND LICENSING OF DOGS AND CATS.

(A) Vaccination and License Required. Any person in possession of a dog or cat that is more than four months old shall: (i) have the dog or cat vaccinated against rabies not less often than every 12 months, (ii) present a certificate from a veterinarian certifying such vaccination to the police department, (iii) obtain a license for keeping the dog or cat in the city from the police department and (iv) renew the license annually prior to its expiration. A person commits an offense if they fail to comply with the provisions of this subsection.

(B) Criteria for the Issuance of a License. Any person who applies for a license (an "Applicant") must satisfy all of the following criteria before a license will be issued:

(1) Certificate of Veterinarian. The Applicant must present a written certificate from a veterinarian certifying that the dog or cat has been vaccinated against rabies within the 12 month period preceding the date the certificate is presented.

(2) Written Application. The Applicant must complete a written application which will be prepared and revised, from time to time, by the Chief of Police or his designee. Among other things, the application shall require the Applicant to certify: (i) that the Applicant is qualified for the issuance of a license (including the criteria regarding prior convictions and that no grounds for revocation of a license exist) and (ii) that all information in the application is complete and accurate.

(3) No Prior Convictions of Certain Offenses or Revocation of a License. Applicant shall not have been convicted of any offense under this chapter or any law relating to animals, protection of animals or the keeping of dangerous animals within one year from the date the application is submitted nor shall the Applicant have had a license revoked under this chapter within one year from the date the application is submitted.

(4) No Grounds for Revocation of License Exist. No facts or circumstances exist which would provide grounds for revocation of the license under this chapter, pursuant to division (D), at or prior to the time the license is issued.

(5) Payment of License Fee. Applicant has paid the license fee then required by the city. The license fee shall be established by the Chief of Police, from time to time, with the concurrence of the City Manager.

(6) Competent Adult. Applicant shall be a competent adult.

(C) Expiration of License. Upon satisfaction of the above criteria, the city shall issue a license to the Applicant. A license will expire on the date the rabies vaccination described in the certificate of the dog or cat's vaccination expires.

(D) Revocation of License.

(1) Grounds. A license may be revoked upon a finding that any of the following grounds exist:

(a) Non Compliance with this Chapter or Other Laws Relating to Animals. The person to whom the license was issued (the "Licensee") refuses or fails to comply with any of the provisions of this chapter or any law governing the protection of animals or any law governing dangerous animals; regardless of whether any such acts or omissions have resulted in a final conviction.

(b) Multiple Impoundments. The dog or cat in question has been impounded by the city three or more times during any consecutive twelve month period within three years from the date notice of intention to revoke license is sent by the city to the Licensee.

(c) Two or More Convictions. The Licensee has two or more final convictions of any offense under this chapter or any law relating to animals, protection of animals or the keeping of dangerous animals within three years of the date the notice of intention to revoke license is sent by the city to the Licensee.

(d) Dog or Cat Determined to be Dangerous. The dog or cat has been determined to be a dangerous animal under state law.

(2) Procedure.

(a) Notice. The animal control officer shall give written notice of his or her intention to revoke the license for a dog or cat in the manner specified in § 91.31 of this code.

(b) Hearing. An administrative hearing shall be held before the Chief of Police to determine if grounds for revocation of the license exist. The date, time and place for the hearing shall be designated by the Chief of Police and included in the notice. The hearing shall be on a date not less than seven days from the date the notice of intention to revoke license is sent to the Licensee. If the Chief of Police determines that grounds exist to revoke the license, pursuant to division (D)(1), the license shall be revoked by the Chief of Police. The ruling or decision of the Chief of Police shall be noted on the license records of the city or by a letter or other appropriate memoranda selected by the Chief which will be kept with the license records of the city. All determinations by the Chief of Police under division (D)(2)(b) shall be final.

(3) Disposition of the Dog or Cat Following License Revocation.

(a) Surrender or Removal of Dog or Cat. Except as provided below for a dog or cat running at large, pursuant to division (D)(3)(d), upon a determination that grounds to revoke a license for a dog or cat do exist, the Licensee shall, within 24 hours of the time the hearing adjourns, either: (i) surrender possession of the dog or cat to the animal control officer or (ii) permanently remove the dog or cat from the city limits of the city and provide proof of such removal to the animal control officer. A person commits an offense if they fail to comply with the provisions of division (D)(3)(a).

(b) Proof of Removal of Dog or Cat. Proof of removal of a dog or cat from the city, in compliance with division (D)(3)(a), may be shown by: (i) a written receipt signed by an individual who is not a resident of the city, acknowledging that such individual is in possession of the dog or cat, stating such individual's address outside of the city and a phone number where such individual can be reached to verify their possession of the dog or cat and (ii) the agreement by the person whose license has been revoked to permit the animal control officer to inspect the premises where the dog or cat was kept to verify its removal.

(c) Transfer of Dog or Cat to Another Who Obtains a License. A person in possession of a dog or cat for which the license has been revoked shall be relieved of the duty to surrender or remove the dog or cat, in accordance with division (D)(3)(a), if such person transfers possession and ownership of the dog or cat to another person who is eligible to obtain a license and such other person does obtain a license within 24 hours of the time the hearing adjourns.

(d) Dog or Cat Running at Large. If the dog or cat the subject of the hearing is running at large the animal control officer shall take immediate steps to impound the dog or cat.

(4) Disposition of a Dog or Cat in the Possession of the City Following License Revocation.

(a) Applicability. This subsection does not apply to any dog or cat that is removed from the city or transferred to another person following revocation of its license in strict compliance with divisions (D)(3)(a) and (D)(3)(b) or (D)(3)(c).

(b) Dog or Cat Surrendered. If a dog or cat whose license has been revoked is surrendered to the animal control officer following the revocation hearing, such dog or cat shall be disposed of in accordance with § 91.32 of this code without further notice to the former Licensee.

(c) Dog or Cat Running at Large. If the license for a dog or cat has been revoked as a result of a hearing under this section and the dog or cat is running at large, the person in possession of the dog or cat may, at the conclusion of the hearing, provide the animal control officer with an address and telephone number where such person can be reached at all times. If such person will be away from such

address or phone number for more than 12 hours, such person shall advise the animal control officer of such other address or phone number where they can be contacted. Once the dog or cat is captured by the animal control officer, the animal control officer will contact such person and provide them with an opportunity to: (i) remove the dog or cat from the city, in compliance with division (D)(3)(a), or (ii) transfer the dog or cat to another person who obtains a license, in accordance with division (D)(3)(c). Such removal or transfer of the dog or cat must be accomplished within 24 hours of the time the animal control officer gives notice that the dog or cat has been captured. This time period will not be extended if the person requesting notice is not available to receive the notice at the address or telephone number provided the animal control officer. The animal control officer shall not surrender possession of the dog or cat to the person previously in possession of same. The animal control officer will only surrender possession of the dog or cat to the person who is not a resident of the city who will remove the dog or cat from the city or to the person who has obtained a license for the dog or cat. If the dog or cat is not removed from the city or transferred to another person who obtains a license (in strict compliance with this division) the animal control officer shall dispose of the dog or cat in accordance with § 91.32 of this code

(d) Dog or Cat Not Surrendered and Not Running at Large. If the license for a dog or cat is revoked and the dog or cat is not surrendered and is not running at large, the animal control officer shall proceed to capture the dog or cat by all lawful means and shall thereafter dispose of the animal in accordance with § 91.32 of this code without further notice to the person in possession of the dog or cat.

(5) Interfering with Apprehension of a Dog or Cat Whose License is Revoked. A person commits an offense if the person: (i) fails to surrender to the animal control officer a dog or cat whose license has been revoked as required by division (D)(3)(a), (ii) conceals the location of a dog or cat whose license has been revoked, or (iii) hinders the apprehension of a dog or cat whose license has been revoked.
(Ord. 562, passed 9-21-98; Am. Ord. 607, passed 12-18-00; Am. Ord. 638, passed 6-17-02)

§ 91.25 DOGS AND CATS IN SEASON.

The animal control officer may require any person in possession of a female dog or cat that is in season to confine the animal to a secure building or structure where the animal cannot escape and where other animals cannot enter. A person commits an offense if the person is in possession of a female dog or cat in season and fails to comply with such an order or directive of the animal control officer.
(Ord. 562, passed 9-21-98)

§ 91.26 MINIMUM DISTANCE OF KENNEL FROM RESIDENCE.

(A) A person commits an offense if the person owns, leases, keeps, possesses or maintains a kennel which does not meet the following requirement: it shall be more than three hundred (300) feet

from any residence or habitation for human beings (other than the residence of the owner, lessor, keeper, or possessor of such kennel). The foregoing distance requirement shall be determined by measuring the most direct line between the two (2) structures.

(B) This section shall not apply to a kennel in existence and operated on the date this chapter is adopted so long as such kennel is hereafter operated continuously and without interruption.
(Ord. 562, passed 9-21-98)

§ 91.27 KEEPING OF BEES.

A person commits an offense if the person is in possession of bees if such bees create an unreasonable nuisance to the public or if the bees have attacked or stung any person or animal.
(Ord. 562, passed 9-21-98)

§ 91.28 IMPOUNDMENT: DISPOSAL OR TRANSFER OF ANIMALS.

(A) Authority to Impound Animals. The animal control officer shall have authority to impound any animal being kept within the city in violation of any of the provisions of this chapter or any law relating to animals, protection of animals or the keeping of dangerous animals.

(B) Reclaim Procedure.

(1) Notice. When an animal is impounded the animal control officer shall send notice of that fact to the person in possession of the animal. The notice shall be sent in accordance with § 91.31 of this code.

(2) Conditions for Reclaiming an Animal. Unless the animal control officer has reason to believe and does believe that the impounded animal is a dangerous animal as defined by state law or that the impounded animal has been cruelly treated and should be forfeited, the person previously in possession of an animal may reclaim the animal by complying with the following conditions within seven days of the date notice of impoundment is sent to such person:

(a) Payment of Fines and Fees. Payment of all applicable fines, penalties and expenses of impoundment, including, without limitation, those fees specified in § 91.29 of this code; and

(b) Compliance with Law. Compliance by such person with any applicable provision of this chapter or any other law relating to the manner in which the animal is to be kept or the conditions under which the animal is kept; and

(c) License for a Dog or cat. If the animal is a dog or cat for which a license is required under this chapter, such person obtains a license for such dog or cat.

(3) Release of the Animal. The animal control officer shall determine, from the foregoing list of conditions, which conditions apply as prerequisites to the reclaim or release of an impounded animal. The animal control officer shall not release an impounded

animal until all conditions determined to be applicable to the impounded animal have been fully satisfied.

(4) Cruelly Treated Animal or Dangerous Animal. If the animal control officer has reason to believe and does believe that the impounded animal is being cruelly treated (pursuant to Chapter 821 of the Texas Health and Safety Code) or is a dangerous animal (pursuant to Chapter 822 of the Texas Health and Safety Code) or any other law permitting the seizure and disposition of such animals, the animal control officer shall not release the impounded animal but shall pursue the remedies under such laws provided for officers responsible for animal control or the animal control authority.

(C) Disposition of an Animal.

(1) If Animal Not Reclaimed. If the person previously in possession of an animal does not reclaim the impounded animal within the time period set forth below, the animal control officer or his or her designee may dispose of the animal in accordance with §91.32 of this code without further notice to such person. The time period for reclaiming an animal is as follows:

(a) For any animal having a current license issued in accordance with this chapter at the time the animal control officer takes possession of the animal, the reclaim period shall be five working days.

(b) For any animal that is not licensed under this chapter or any animal that does not have a current license in accordance with chapter at the time the animal control officer takes possession of the animal, the reclaim period shall be three working days.

(c) For purposes of this division, a "working day" shall be any Monday through Friday on which the Burkburnett City Hall is open for business. This section shall not apply to an animal that has been cruelly treated or that is the subject of a proceeding to determine if it is a dangerous animal; such animals will be disposed of in accordance with the law applicable to such situation.

(2) Emergency Disposition. Notwithstanding the provisions of division (C)(1) above, an impounded animal shall be destroyed immediately if, in the opinion of the animal control officer, any police officer of the city or a veterinarian: (i) it is injured or is sick and is in such a state that its recovery is seriously in doubt or (ii) it is sick and endangers the health of other animals or persons.

(D) Record of Impounded Animals. The animal control officer shall keep a record of all animals impounded. Such record shall include a description of animal, the date of impoundment, the location and time of impoundment, the name of owner or person in possession of the animal (if known), and disposition of the animal.

(E) Animal Reclaim Center. The Board of Commissioners shall erect or establish a suitable animal reclaim center for impounding animals running at large or otherwise in violation of the provisions of this chapter or applicable law.

(F) Citation in Lieu of Impoundment. In lieu of impounding an animal that is at large or being kept in violation of this chapter, the animal control officer may issue the person in possession thereof a citation for any violations of this chapter or applicable law.

(G) Private Property-Right to Enter. In the event an animal is observed at large on private property, the animal control officer may enter the property in accordance with applicable law for the purpose of emergency impoundment, seizure of the animal or issuance of a citation or both.
(Ord. 562, passed 9-21-98; Am. Ord. 607, passed 12-18-00; Am. Ord. 762, passed 7-20-09)

§ 91.29 FEES.

(A) The following this shall be charged by the animal control officer before an impounded animal is surrendered to its owner.

(1) Impoundment fees:

(a) Dogs and Cats - $25.00 per animal, per impoundment;

(b) Livestock - $50.00 per head, per impoundment; and

(c) Fowl and any animal excluding dogs, rats, and livestock - $5.00 per head, per impoundment.

(2) Boarding Fees: $3.50 per day, per animal.

(3) Pet Pickup - $5.00 per pickup of deceased pets (dogs and cats) from private property at the request of their owners.

(B) The fees or money received under the provisions of this chapter shall be paid to the city clerk and shall be used to for defraying of cost incurred in connection with the enforcement of the provisions of this chapter.

(C) The person in possession of every dog, cat, or Vietnamese pot-bellied pig shall pay a fee of $4.00 for each tag evidencing the license required by this chapter.
(Ord. 562, passed 9-21-98)

§ 91.30 DISPOSITION OF DEAD ANIMALS.

The person in possession of an animal shall properly disposal of the animal following its death (in accordance with applicable law) within 24 hours of the time such owner or person in possession of same discovers the death of the animal. A person commits an offense if the person fails to comply with this section.
(Ord. 562, passed 9-21-98)

§ 91.31 NOTICES.

(A) Form of Notice. The notices required by § 91.24 (notice of intention to revoke a license) and § 91.28 (notice of impoundment) shall be substantially in the following forms:

(1) For license revocation:

CITY OF BURKBURNETT
ANIMAL CONTROL
208 East Fourth Street
Burkburnett, Texas 76354
Telephone: 940-569-2231

_____,20__
(date notice is sent)

To: (name and address of the person listed on the subject license or the person in possession of the animal the subject of the notice)

Description of the dog or cat the subject of the notice:

License No.:

PLEASE TAKE NOTICE THAT: The Animal Control Officer of the City of Burkburnett, Texas has reason to believe, and does believe, that the following grounds exist to revoke the license for the above described dog or cat:

Those grounds which are marked or checked apply:

___(a) The person to whom the license was issued refuses or has failed to comply with provisions of the Code of Ordinances of the City of Burkburnett, Texas or a law governing the protection of animals or any law governing dangerous animals; regardless of whether any such acts or omissions have resulted in a final conviction. A brief description of the facts which form the basis for this allegation are as follows:

___(b) The dog or cat in question has been impounded by the city three or more times during a consecutive twelve month period within three years from the date of this notice.

___(c) The Licensee has two or more final convictions within three years from the date of this notice of an offense under Chapter 91 of the Code of Ordinances of the City of Burkburnett, Texas or a law relating to animals, protection of animals or the keeping of dangerous animals.

___(d) A final determination has been made, in accordance with state law, that the dog or cat is a dangerous animal.

An administrative hearing will be held before the Chief of Police on the following date and time and at the following location to determine if grounds exist to revoke the license for the dog or cat referred to above:

Date of Hearing: _____
Time of Hearing: _____
Place of Hearing: Municipal Courtroom
208 East Fourth Street
Burkburnett, Texas.

If a determination is made that grounds exist to terminate this license the license will be revoked and you will be required to either surrender the dog or cat to the animal control officer or remove it from the city and provide proof that you have done so within 24 hours from the time the hearing adjourns unless another person obtains a license for the dog or cat within that 24 hour time period. If your license is revoked you will not be eligible for a new license for a period of one year.

_____
Animal Control Officer,
City of Burkburnett, Texas

(2) If for impoundment:

CITY OF BURKBURNETT
ANIMAL CONTROL
208 East Fourth Street
Burkburnett, Texas 76354
Telephone: 940-569-2231

_____,20__
(date notice is sent)

To: [name and address of the person listed on the subject license or the person in possession of the animal the subject of the notice]

Description of the animal the subject of the notice:

License No. (if a dog or a cat with a license):

PLEASE TAKE NOTICE THAT: The above described animal has been impounded by the City of Burkburnett, Texas. You may reclaim this animal by: (i) paying of all applicable fines, penalties and expenses of impoundment, (ii) compliance with any applicable provision of the Code of Ordinances of the City of, Burkburnett, Texas or any other law relating to the manner in which the animal is to be kept or the conditions under which the animal is kept; and (iii) if the animal is a dog or cat for which a license is required, obtaining a license.

If you do not reclaim the animal by complying with these conditions within seven (7) days of the date of this notice, the City will dispose of the animal without further notice by one of the following methods: by transfer to the Humane Society of Wichita County or a similar charitable organization or destruction of the animal.

_____
Animal Control Officer,
City of Burkburnett, Texas

(B) Manner of Providing Notice. The notices described in this section shall be provided by the animal control officer: (i) posting the appropriate notice at the City Police Department on a bulletin board provided for posting notices to the public and (ii) mailing the notice to the person named in the notice by certified mail, return receipt requested. The address to be used for mailing a notice will be determined as follows:

(1) If the animal is a dog or cat which has a current license, notice shall be mailed to the address shown for the licensee according to the license records of the city.

(2) If the animal is a dog or a cat which does not have a current license or is an animal for which a license is not required under this chapter, notice shall be sent to the address for the person entitled to notice according to the utility records of the city unless no address is shown in the utility records of the city for such person in which case the notice will be sent to the address for such person according to the ad valorem tax rolls of the city.

(3) If no address can be found by one of the methods described in division (B)(1) or (2) above, address of the premises where the animal was previously kept (if known) or if such location is not known to any address for the person in a current phone or address directory or any other publically accessible record of addresses.

(C) Delivery of Notice. The animal control officer may deliver a notice directly to the person named in the notice in lieu of mailing it; or the animal control officer may deliver a notice directly to the person named in the notice in addition to mailing it.

(D) If Person in Possession is Unknown or Address is Unknown. If, in the exercise of reasonable diligence, the animal control officer is unable to ascertain the person in possession of an animal or is unable to obtain an address for the person by any of the means specified in division (B) above, the posting of the notice shall be sufficient notice.

(E) Calculation of Time Periods. For purposes of this chapter, a notice shall be considered "sent" or "delivered" on the latter of:

(1) The date it is posted; or

(2) The date it is mailed; or, if the notice is mailed and delivered on the date it is mailed; but if the notice is delivered but not mailed, on the date it is delivered.

Any time period required by this chapter shall exclude the date the notice is mailed or posted.
(Ord. 607, passed 12-18-00)

§ 91.32 METHOD OF DISPOSITION OF AN ANIMAL.

If the license for a dog or cat is revoked pursuant to this chapter and the dog or cat is not removed from the city or transferred to another person who obtains a license for the dog or cat, as required by § 91.24 of this code, or if an impounded animal is not reclaimed in the manner required by § 91.28 of this code, the animal control office may dispose of the animal by transfer to the Humane Society of Wichita County or a similar charitable organization or destruction of the animal. All euthanasia shall be done humanely by injection of sodium phenobarbital administered by the animal control officer or his or her appointed agent.
(Ord. 607, passed 12-18-00)

VICIOUS DOGS

§ 91.40 DEFINITIONS.

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

"OWNER." Any person in possession of a dog or animal as defined by § 91.01.

"OWNING." The act of being in possession of a dog or animal as defined by § 91.01.

"VICIOUS DOG." Any dog:

(1) Without provocation, that bites or attacks a human being or domestic animal, either on public or private property, or that, in a vicious or terrorizing manner, approaches any person on the streets, sidewalks or other public places in an apparent attitude of attack;

(2) With a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(3) Owned or harbored primarily or in part for the purpose of dog fighting, or trained for dog fighting.
(Ord. 762, passed 7-20-09)

§ 91.41 EXEMPTIONS.

(A) No dog shall be deemed vicious if the bite, injury or damage was sustained by a person who at the time was committing a willful

trespass upon the premises occupied by the owner or harborer of the dog or by a person who has tormented or abused the dog.

(B) Dogs under control of the police department or other proper governmental agency are exempt from this division.
(Ord. 762, passed 7-20-09)

§ 91.42 LICENSE REQUIRED.

Any person owning a vicious dog must obtain a license. Written application for such license shall be made to the animal control officer and shall include the applicant's name and address, a description of the animal, proof of current rabies vaccination, and the payment of a fee set by the animal control officer and approved by the Board of Commissioners. The expiration date of the license shall coincide with the current rabies tag. Before the license is issued, the owner shall have his or her driver's license number or state identification number permanently tattooed on the inner surface of one ear of the dog by a licensed veterinarian. The owner of a vicious dog must be at least 18 years old. Not later than 30 days after a person learns that the person is the owner of a vicious dog as defined in this chapter, the person shall obtain liability insurance coverage of at least $100,000.00 to cover damages resulting from an attack by the vicious dog causing bodily injury to a person or a person's property and the person shall provide proof annually of the required liability insurance coverage to the animal control officer.
(Ord. 762, passed 7-20-09)

§ 91.43 DECLARATION OF VICIOUS DOG.

The owner or harborer may voluntarily declare that he has a vicious dog and apply for a vicious dog license, or the animal control officer, acting on information it has received, may declare a dog vicious after adequate investigation.
(Ord. 762, passed 7-20-09)

§ 91.44 INVESTIGATION OF COMPLAINTS.

If the animal control officer receives a complaint that a dog is vicious and the complainant will give a sworn statement with particulars concerning the complaint, a thorough investigation shall be made. If it is determined by the animal control officer that an animal is vicious and presents a substantial danger to the public health, safety and welfare of the community, the animal may be impounded immediately, and its owner promptly notified. The owner of such animal shall have five calendar days in which to file a written appeal of this determination to the Chief of Police. If the release of the dog is allowed, impoundment and other fees shall be paid prior to release.
(Ord. 762, passed 7-20-09)

§ 91.45 DESTRUCTION.

(A) Any dog determined to be vicious by the animal control officer may be destroyed if:

(1) Written appeal of the determination that the dog has been found to be vicious is not made to the chief of police within five calendar days from receipt, by the owner, of the notice of such determination and that such animal is to be destroyed;

(2) After written appeal by the owner of such animal it is determined by the police chief that the animal is or remains a substantial danger to the public health, safety and welfare of the community and should be destroyed; or

(3) The owner of such animal fails or refuses to destroy the animal as requested by official notice or order of the animal control officer or the chief of police (if the case has been appealed to the chief of police).

(B) The owner of the vicious animal shall have the opportunity for a hearing if the owner tiles a written request with the chief of police within five days of receiving written notice of intent to destroy. The owner will be granted a hearing within ten days of receipt of a request for hearing. If no request for a hearing is received the animal will be destroyed.

(C) A notice as required in these rules is properly served when it is delivered to the owner, caregiver or possessor of the animal, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the owner, caregiver or possessor of the animal. A copy of the notice shall be filed in the records of the Police Department.

(D) The Chief of Police shall conduct the hearings provided for in these rules at a time and place designated by the chief of police. Based upon the recorded evidence of such hearing, the chief of police 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 owner or caretaker by the animal control officer.

(E) Any person refusing to relinquish a vicious animal for destruction shall upon conviction be punished by fine as provided in § 10.99. If the violation is continuing, each day shall be deemed a separate offense.
(Ord. 762, passed 7-20-09)

§ 91.46 SEIZURE WARRANT.

If the harborer of a dog declared vicious refuses to release such animal to the animal control officer, it shall be the duty of the animal control officer to obtain a seizure warrant for seizure of the animal in accordance with Chapter 18 of the Texas Code of Criminal Procedure.
(Ord. 762, passed 7-20-09)

§ 91.47 CONFINEMENT.

(A) It shall be the responsibility of the owner or harborer of a vicious dog to securely confine such animal. A vicious dog shall be

confined in an enclosure with the walls or fence at least six feet high and otherwise designed to prevent escape by the dog. The enclosure must be securely locked.

(B) It shall be unlawful for a vicious dog to be outside the dwelling of the owner or outside the enclosure unless it is necessary for the owner to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with directions of the animal control officer. In such event, the vicious dog shall be securely restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length and shall be under direct control and supervision of the owner or harborer or humanely caged. Unless confined or restrained under conditions stated in this subsection, the vicious dog shall be considered at large and subject to the penalties of this chapter of the code.

(C) A vicious dog may not be chained to any object outside the dwelling or locked enclosure either on or off the property of the owner.

(D) If the animal is sold, given away or changes residence, the owner or harborer is to notify the local rabies control authority within five days. The owner must notify in writing on or before the date of possession or custody as transferred the person who receives the animal from the owner that the animal is a vicious animal and the requirements of a vicious dog license. If the owner fails to so notify the recipient the owner shall remain liable for all penalties in §§ 91.40 through 91.50 of this chapter jointly and severally with the new owner.
(Ord. 762, passed 7-20-09)

§ 91.48 SIGN.

The owner or harborer of a vicious dog shall display a sign on the premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public street or highway.
(Ord. 762, passed 7-20-09)

§ 91.49 INSPECTIONS.

An inspection of the premises of the vicious dog and the vicious dog shall be made twice a year and at any other time deemed necessary by the animal control officer.
(Ord. 762, passed 7-20-09)

RABIES REGULATION OF DANGEROUS ANIMALS AND ANIMALS CAUSING HARM TO PERSONS

§ 91.60 ANIMAL BITES PROCEDURE RABIES QUARANTINE PROCEDURES.

(A) Reports. A person commits an offense if the person (including owners or persons in possession of animals, veterinarians, or physicians) fails to report any of the following in the manner set forth in this section:

(1) If any person observes an animal which is displaying the symptoms of rabies it shall be reported immediately to the police department.

(2) If any person observes or becomes aware of facts indicating an animal has bit or scratched any person without breaking the skin of the victim and if said person has reason to believe that the animal is infected with rabies it shall be reported immediately to the police department.

(3) If any person is bitten or scratched or if any person observes or becomes aware of the fact that an animal has bitten or scratched any person in a manner which causes a break in the skin of the victim, said person (or the person's parent or guardian if the victim is a minor or incapacitated) shall report the incident to the police department and fill out a bite report.

(B) Quarantine of Animal. Following the receipt of a report under divisions (A)(1) or (2), the animal control officer shall, as soon as feasible, impound such animal for quarantine purposes if the symptoms of rabies described in the animal are verified by a veterinarian as indicating the animal may be a carrier of rabies. The animal control officer may seize an animal to facilitate its examination for this purpose. Upon receipt of a report under of division (A)(3) of this section, the animal control officer shall, as soon as feasible, impound the animal for quarantine purposes.

(C) Quarantine Procedures. The quarantine of an animal pursuant to this section shall be pursuant to the following procedures:

(1) Period of Quarantine. The quarantine shall be for a period of at least ten days from the day of the bite, or as required by State Law.

(2) Examination of Animal or Tissue in Absence of Owner. In the event the person in possession of the animal quarantined cannot be identified and located within reasonable length of time, the victim, at his or her option, may elect to have the animal examined by a veterinarian, or to have the tissue submitted for laboratory examination, and the costs so incurred shall be borne by the city.

(3) High Risk Animals. Any high risk animal such as skunks, bats, foxes, coyotes, canine hybrid breeds and raccoons, shall be humanely killed and tested for rabies. An animal that has inflicted multiple bites to a person on the neck, face, or head may be required by animal control officer to be immediately tested for rabies without prior notice to the person in possession of the animal.

(4) Place of Quarantine. The quarantine of an animal under this section shall take place, at the expense of the person in possession of the animal, at one of the following locations:

(a) A veterinary hospital selected by the person in possession of the animal; or

(b) The city's animal reclaim center if the person in possession of the animal does not: (i) timely notify the animal control officer of their choice of veterinary hospitals and (ii) make arrangements with said hospital for payment; or

(c) At the home of the person in possession of the animal but only if, in the opinion of the animal control officer, the following criteria has been fully met:

1. The person bitten is a family member and resides in the household where the animal is kept;

2. Secure facilities are available at the home;

3. The animal is currently vaccinated against rabies. An animal under four months of age may be home quarantined if it is unvaccinated as long as all other requirements are met;

4. The person in possession of the animal agrees that the animal control officer, his or her representative, and/or a veterinarian may observe the animal at least on the first and last days of the quarantine period (at the expense of the person in possession of the animal if it is a veterinarian) and at such other times as the animal control officer or veterinarian deems necessary;

5. The animal was not a stray or at large at the time of the bite;

6. If the animal becomes ill during the observation period, the person in possession must agree to notify the animal control officer; and

7. The person in possession agrees that the animal control officer can immediately impound the animal in the event if there is any failure to comply with any of the foregoing conditions or criteria or if required by a veterinarian.

(D) Release. No animal confined for quarantine purposes under the provisions of this section shall be released until: (i) the quarantine period is over, (ii) the animal is either vaccinated against rabies or proof (satisfactory to the animal control officer) has been provided that the animal has a current rabies vaccination, (iii) the person in possession of the animal provides proof of payment to a veterinarian for the rabies vaccination in the event the animal is vaccinated for rabies while in quarantine, and (iv) all boarding and impoundment fees, expenses, fines and penalties owing in connection with the animal have been paid. In addition to any fines or penalties which may be assessed in connection with the quarantine of an animal pursuant to this section, the city shall charge an impoundment fee in accordance with § 91.29 of this chapter and a boarding fee (in accordance' with § 91.29 of this chapter) for any animal quarantined in the city's animal reclaim center.

(E) City-wide Quarantine. When based upon a report of the Texas Board of Health or confirmed cases of rabies within the city, the Wichita County Health Department may recommend a city-wide quarantine. If a city-wide quarantine is so recommended the Chief of Police with the concurrence of the City Manager may impose a city-wide quarantine. During a city-wide quarantine a person commits an offense if the person: (i) allows any animal in the person's possession to be taken, whether restrained or not, to the streets, or any other public place and (ii) permits any animal (including cats) in the person's possession to be at large. A citywide quarantine may be invoked for a period of thirty (30) days but in the event there are additional positive cases of rabies occurring during this period of city-wide quarantine, such period of quarantine may be extended for an additional reasonable period of time by the Chief of Police with the concurrence of the City Manager upon the recommendation of the Wichita County Health Department.

(F) Animals Bitten During City-wide Quarantine. During any city-wide rabies quarantine every animal bitten (and thereby exposed to rabies) by an animal which has been or is determined to have rabies, shall be destroyed or the person in possession of the exposed animal may elect the following procedure at such person's sole expense as an alternative to the destruction of the bitten animal:

(1) If the exposed animal was currently vaccinated against rabies at the time of the exposure, it must be:

(a) Vaccinated against rabies immediately; and

(b) Placed in strict isolation for forty-five (45) days.

(2) If the exposed animal was unvaccinated against rabies at the time of the exposure, it must be treated as follows:

(a) Vaccinated against rabies immediately after the exposure;

(b) Given a second rabies vaccination three weeks after the exposure;

(c) Given a third rabies vaccination eight weeks after the exposure; and

(d) Placed in a strict isolation for ninety (90) days.

(3) The circumstances of the exposed animal's isolation must be approved by the animal control officer.

(G) Destruction of Animals Prohibited. A person commits an offense if the person: (i) kills, or causes to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting or scratching a human, or (ii) removes same from the city limits without written permission from the animal control officer or the Wichita County Health Department.

(H) Surrender of Certain Dead Animals. A person commits an offense if the person fails or refuses to surrender the carcass of any dead animal exposed to rabies upon demand by the animal control officer or the Wichita County Health Department.

(I) Exemptions for Certain Dogs. The following animals will not be required to be placed in quarantine: (i) currently vaccinated guide dogs in service and (ii) currently vaccinated police dogs that inflict a bite while in the line of duty.

(J) Local Rabies Control Authority. The Chief of Police or his designated representative is hereby designated as the local rabies control authority pursuant to Chapter 826 of the Texas Health and Safety Code.

(K) Construction with State Law. Nothing in this chapter shall be construed to limit the authority of the animal control officer to carry out or enforce the provisions of Chapter 826 of the Texas Health and Safety Code, the rules of the Texas Board of Health pertaining to rabies and the rules adopted by the Texas Board of Health under the area rabies quarantine provisions of Section 826.045 of the Texas Health and Safety Code.

(L) Seizure Warrant. If a person who is in possession of an animal which is subject to quarantine, testing or destruction under this § 91.60 fails or refuses to release the animal to the animal control officer for quarantine; the animal control officer may apply to a magistrate for a seizure warrant authorizing seizure of such animal for the purpose of quarantine, testing or destruction in accordance with this section.
(Ord. 562, passed 9-21-98)

§ 91.61 WILD ANIMALS PROHIBITED.

A person commits an offense if the person keeps or harbors any wild animal. For purposes of this chapter, a wild animal means a species, including each individual of a species, that normally lives in a state of nature and is not ordinarily domesticated; or which, because of its size, vicious nature and other characteristics, would constitute a danger to human life or property greater than that posed by domestic livestock or other animals permitted under this chapter. Such creatures shall include but are not limited to all forms of poisonous reptiles, and nonpoisonous snakes which will exceed a length of six (6) feet when mature, and nonhuman primates. Nonpoisonous snakes which will exceed a length of six (6) feet when mature will not be sold or imported within the city limits. Snakes over six (6) feet presently owned and maintained within the city limits will be exempt from this section, provided the snake is registered with the Animal Control Officer and the snake is maintained in a safe and secure manner. Hamsters, gerbils, ferrets and domesticated breeds of rabbits, guinea pigs, rats, mice, newts and salamanders shall not be considered wild animals for purposes of this chapter.
(Ord. 562, passed 9-21-98)

§ 91.62 ADOPTION OF STATE LAW REGARDING DANGEROUS DOGS.

The city hereby adopts the provisions of Section 822.0422 of the Texas Health and Safety Code regarding procedures for determining whether a dog is dangerous and related matters.
(Ord. 562, passed 9-21-98)

TREATMENT OF ANIMALS

§ 91.80 HUMANE CARE AND TREATMENT REQUIRED.

(A) Food and Water. All animals shall be fed at least once daily. Water shall be available to the animals at all times. All water and food receptacles shall be kept clean and sanitary at all times. Food shall be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value shall be prepared with consideration to the age, species, size, condition, and temperament of the animal.

(B) Shelter.

(1) Dogs, Cats and Domestic Pets. Dogs, cats, and other domestic pets shall be provided with access to shelter to allow them to remain dry and protected from cold and wind. Shelter shall be enclosed fully on three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit, sturdy enough to block entry of wind and rain. It shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair. Bedding shall be provided. When sunlight is likely to cause overheating or discomfort, sufficient shade (artificial or natural) shall be provided to allow animals to protect themselves from the direct rays of the sun. If shade is provided by the enclosure, allowance shall be made for adequate ventilation.

(2) Livestock. All livestock shall have a shed of reasonable size for the number of livestock to allow them to remain dry, during wet weather and protected from severe chill factors. Such shelter shall have three sides and a roof. It shall be structurally sound and in good repair to protect the livestock from injury. Such shelter will provide minimum space to accommodate all livestock confined within the compound. Either natural or artificial shade is provided by the enclosure, allowance shall be made for adequate ventilation.

(C) Space Requirements. Any animal kept on a chain shall be placed so that the chain cannot become entangled with the chains of other animals or with any other objects. The chain shall be at least three times the length of the animal as measured from the tip of the nose to the base of the tail. The chain shall also be of sufficient length to allow the animal complete access to the shelter at all times. For animals not confined by chains, the enclosures shall be constructed and maintained so as to maintain physical condition. The animal must be able to make normal postural and social adjustments. There shall be ample room to prevent overcrowding, physical discomfort, or stress.

(D) Confining Animals to Motor Vehicles Prohibited. No animal shall be confined within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including but not limited to dangerous temperature, lack of food, water, or attention, or confinement with a dangerous animals. Any animal control or peace officer is authorized to remove any animal from a motor vehicle at any location when he reasonably believes it is confined in violation of this section. Any animal so removed shall be delivered to the animal reclaim center, after such removing of such animal, the officer shall leave a written notice of such removal and delivery, including his name, in a secure, conspicuous location on or within the vehicle. The animal shall be released from the animal reclamation center upon payment of any fines or penalties, the impoundment fee and any accrued boarding fees.

(E) Failure to Comply. A person commits an offense if they fail to comply with any of the provisions of divisions (A) through (D) of this section.
(Ord. 562, passed 9-21-98)

§ 91.81 ANIMAL STRUCK BY MOTOR VEHICLE.

Any person who, while operating a motor vehicle, is involved in a collision with an animal shall stop at once, render such assistance as may be practicable, and report the accident to the police department. A person commits an offense if the person fails to comply with this section.
(Ord. 562, passed 9-21-98)

§ 91.82 POISONING ANIMALS; TRAPS.

(A) A person commits an offense if the person exposes any known poisonous substance, whether mixed with food or, not, so than the same shall be liable to be eaten by any animal. It shall be a defense to prosecution under this section if the defendant demonstrates that he or she was engaging in the prudent use of herbicides, insecticides, or rodent control materials mixed only with vegetable substance on his or her own property.

(B) A person commits an offense if the person exposes an open jaw type trap, leg hold trap, snare trap, or any type trap able or liable to cause physical harm or injury to any animal or person.
(Ord. 562, passed 9-21-98)

§ 91.99 PENALTY.

Any person violating any section of §§ 91.40 et seq. shall, upon conviction, be punished as provided in § 10.99, and the dog shall be impounded immediately in the animal reclaim center for a minimum of three days or until the violation has been corrected or other sections of this division have been met. An owner of an animal that without provocation bites or injures a person or animal shall be strictly liable for the harm caused by such animal.
(Ord. 762, passed 7-20-09)

CHAPTER 92: CABLE TELEVISION

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GENERAL PROVISIONS

§ 92.01 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

"AFFILIATE." An entity which owns or controls, is owned or controlled by, or is under common ownership with the grantee.

"BASIC CABLE." The tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.

"CABLE ACT." The Cable Communications Policy Act of 1984, as amended.

"CABLE SERVICE."

(1) The one-way transmission to subscribers of video programming or other programming service; and

(2) Subscriber interaction, if any, which is required for the selection of such video programming or any other lawful communication service.

"CABLE SYSTEM." A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide cable service and other service to subscribers.

"FCC." Federal Communications Commission, or any successor governmental entity thereto.

"FRANCHISE." The initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system for the purpose of offering cable service or other service to subscribers.

"FRANCHISING AUTHORITY." The city or the lawful successor, transferee, or assignee thereof.

"GRANTEE." TCI Cablevision of Texas, Inc., or the lawful successor, transferee, or assignee thereof.

"GROSS REVENUES." The monthly cable service revenues received by the grantee from subscribers of the cable system; provided, however, that such phrase shall not include:

(1) Revenues received from any national advertising carried on the cable system;

(2) Any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the grantee on behalf of such governmental unit or agency.

"PERSON." An individual, partnership, association, joint stock company, trust corporation, or governmental entity.

"PUBLIC WAY." the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the franchising authority in the service area which shall entitle the franchising authority and the grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the cable system. "Public way" shall also mean any easement now or hereafter held by the franchising authority within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the franchising authority and the grantee to the use thereof for the purposes of installing or transmitting the grantee's cable service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

"SERVICE AREA." The present municipal boundaries of the franchising authority, and shall include any additions thereto by annexation or other legal means.

"SERVICE TIER." A category of cable service or other services, provided by the grantee and for which a separate charge is made by the grantee.

"SUBSCRIBER." A person or user of the cable system who lawfully receives cable services or other service therefrom with the grantee's express permission.

"VIDEO PROGRAMMING." Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.
(Ord. 501, passed 4-19-93)

§ 92.02 DOCUMENTS INCORPORATED AND MADE A PART HEREOF.

The following documents shall be incorporated herein by this reference, and in the case of a conflict or ambiguity between or among them, the document of latest date shall govern:

(A) Any enabling ordinance in existence as of the date hereof; and

(B) Any franchise agreement between the grantee and franchising authority reflecting the renewal of the franchise, if any.
(Ord. 501, passed 4-19-93)

§ 92.03 PREEMPTION.

If the FCC, or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the franchising authority, the jurisdiction of the franchising authority shall cease and no longer exist.
(Ord. 501, passed 4-19-93)

§ 92.04 ACTIONS OF FRANCHISING AUTHORITY.

In any action by the franchising authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.
(Ord. 501, passed 4-19-93)

§ 92.05 NOTICE.

Unless expressly otherwise agreed between the parties, every notice or response to be served upon the franchising authority or grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.
(Ord. 501, passed 4-19-93)

GRANT OF FRANCHISE

§ 92.15 GRANT.

The city grants to the grantee a nonexclusive franchise which authorizes the grantee to construct and operate a cable system and

offer cable service and other services in, along, among, upon, across, above, over, under, or in any manner connected with public ways within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the cable system.
(Ord. 501, passed 4-19-93)

§ 92.16 TERM.

The franchise granted pursuant to this chapter shall be for an initial term of 15 years from the effective date of the franchise as set forth in § 92.17, unless otherwise lawfully terminated in accordance with the terms of this chapter.
(Ord. 501, passed 4-19-93)

§ 92.17 ACCEPTANCE: EFFECTIVE DATE.

The grantee shall accept the franchise granted pursuant hereto by signing this chapter and filing same with the City Secretary or other appropriate official or agency of the franchising authority within 60 days after the passage and final adoption of this chapter. Subject to the acceptance by the grantee, the effective date of this chapter shall be the 60th day after its passage and final adoption.
(Ord. 501, passed 4-19-93)

§ 92.18 FAVORED NATIONS.

In the event the franchising authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the grantee to enter into the franchising authority's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.
(Ord. 501, passed 4-19-93)

STANDARDS OF SERVICE

§ 92.25 CONDITIONS OF STREET OCCUPANCY.

All transmission and distribution structures, poles, other lines, and equipment installed or erected by the grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.
(Ord. 501, passed 4-19-93)

§ 92.26 RESTORATION OF PUBLIC WAYS.

If during the course of the grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by the grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.
(Ord. 501, passed 4-19-93)

§ 92.27 RELOCATION AT REQUEST OF FRANCHISING AUTHORITY.

Upon its receipt of reasonable advance notice, not to be less than five business days, the grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the grantee when lawfully required by franchising authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the franchising authority; but, the grantee shall in all cases have the right of abandonment of its property. if public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the grantee.
(Ord. 501, passed 4-19-93)

§ 92.28 RELOCATION AT REQUEST OF THIRD PARTY.

The grantee shall, on the request of any person holding a building moving permit issued by the franchising authority, temporarily raise or lower its wires to permit the moving of such building, provided:

(A) The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the grantee, making such payment in advance; and

(B) The grantee is given not less than ten business days advance written notice to arrange for such temporary wire changes.
(Ord. 501, passed 4-19-93)

§ 92.29 TRIMMING OF TREES AND SHRUBBERY.

The grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the service area so as to prevent branches from coming in contact with the grantee's wires, cables, or other equipment. The grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities or the franchising authority for tree trimming. The grantee shall reasonably compensate the franchising authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any

construction of the System undertaken by grantee. Such replacement shall satisfy any and all obligations the grantee may have to the franchising authority or property owner pursuant to the terms of this subchapter.
(Ord. 501, passed 4-19-93)

§ 92.30 USE OF GRANTEE'S EQUIPMENT BY FRANCHISING AUTHORITY.

Subject to any applicable state or federal regulations or tariffs, the franchising authority shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the grantee in any public way; provided that:

(A) Such use by the franchising authority does not interfere with a current or future use by the grantee;

(B) The franchising authority holds the grantee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits, including, but not limited to, reasonable attorneys' fees and costs; and

(C) At the grantee's sole discretion, the franchising authority may be required either to pay a reasonable rental fee or otherwise reasonably compensate the grantee for the use of such poles, conduits, or equipment; provided, however, that the grantee agrees that such compensation or charge shall not exceed those paid by it to public utilities pursuant to the applicable pole attachment agreement, or other authorization, relating to the service area.
(Ord. 501, passed 4-19-93)

§ 92.31 SAFETY REQUIREMENTS.

Construction, installation, and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.
(Ord. 501, passed 4-19-93)

§ 92.32 AERIAL AND UNDERGROUND CONSTRUCTION.

In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving the grantee's cable and other equipment without technical degradation of the cable system's signal quality. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are

both aerial and underground, the grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this section shall require the grantee to construct, operate, and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this chapter, the grantee shall only be required to construct, operate, and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.
(Ord. 501, passed 4-19-93)

§ 92.33 REQUIRED EXTENSIONS OF SERVICE.

The cable system, as constructed as of the date of the passage and final adoption of this chapter, substantially complies with the material provisions hereof. The grantee is hereby authorized to extend the cable system as necessary, as desirable, or as required pursuant to the terms hereof within the service area. Whenever the grantee shall receive a request for service from at least 15 subscribers within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its cable system to such subscribers at no cost to the subscribers for system extension, other than the usual connection fees for all subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the cable system, or as provided for under § 92.34.
(Ord. 501, passed 4-19-93)

§ 92.34 SUBSCRIBER CHARGES FOR EXTENSIONS OF SERVICE.

No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a subscriber's request to locate his cable drop underground, existence of more than 150 feet of distance from distribution cable to connection of service to subscribers, or a density of less than 15 subscribers per 1,320 cable-bearing strand feet of trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by grantee and subscribers in the area in which cable service may be expanded, the grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of potential subscribers per 1,320 cable-bearing strand feet of its trunks or distribution cable, and whose denominator equals 15 subscribers. Potential subscribers will bear the remainder of the construction and

other costs on a pro rata basis. The grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance.
(Ord. 501, passed 4-19-93)

§ 92.35 SERVICE TO PUBLIC BUILDING.

The grantee shall provide without charge one outlet of basic service to the franchising authority's office building(s), fire station(s), police station(s), and public school building(s) that are passed by the grantee's cable system. The outlets of basic service shall not be used to distribute or sell cable services in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold the grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this section, the grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds 150 cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition, or market development of the cable system to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of basic service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of the grantee, the building owner may also be required to pay the service fees associated with the provision of basic service and the additional outlets relating thereto.
(Ord. 501, passed 4-19-93)

§ 92.36 EMERGENCY OVERRIDE.

In the case of any emergency or disaster, the grantee shall, upon request of the franchising authority, make available its facilities for the franchising authority to provide emergency information and instructions during the emergency or disaster period. The franchising authority shall hold the grantee, its agents, employees, officers, and assigns hereunder, harmless from any claims arising out of the emergency use of its facilities by the franchising authority, including, but not limited to, reasonable attorneys' fees and costs.
(Ord. 501, passed 4-19-93)

Cross-reference
Emergency management, see Ch. 93

REGULATION

§ 92.45 FRANCHISE FEE.

(A) The grantee shall pay to the franchising authority a franchise fee equal to 5% of gross revenues received by the grantee from the operations of the cable system on an annual basis; provided, however, that the grantee may credit against any such payments:

(1) Any tax, fee, or assessment of any kind imposed by franchising authority or other governmental entity on a cable operator, or subscriber, or both, solely because of their status as such; and

(2) Tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or subscribers (including any such tax, fee, or assessment imposed, both on utilities and cable operators and their services).

(B) For the purpose of this section, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the franchising authority and grantee. The franchise fee payment shall be due and payable 90 days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of the grantee showing the basis for the computation.

(C) In the event the maximum allowable franchise fee is increased by law, the franchise authority may request an increase up to an amount equal to the maximum allowed by law. However, prior to the grantee having the obligation to pay that fee, the grantee must be notified in writing 90 days prior to that obligation occurring. The grantee has the right to pass through to the subscriber the franchise fee.
(Ord. 501, passed 4-19-93)

§ 92.46 LIMITATION ON FRANCHISE FEE ACTIONS.

The period of limitation for recovery of any franchise fee payable hereunder shall be five years from the date on which payment by the grantee is due. Unless within five years from and after said payment due date the franchising authority initiates a lawsuit for recovery of such franchise fees in a court of competent jurisdiction, such recovery shall be barred and the franchising authority shall be estopped from asserting any claims whatsoever against the grantee relating to any such alleged deficiencies.
(Ord. 501, passed 4-19-93)

§ 92.47 RATES AND CHARGES.

The franchising authority may not regulate the rates for the provision of cable service and other services, including, but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as authorized pursuant to federal and state law including, but not limited to, the Cable Act and FCC Rules and Regulations relating thereto. From time to time, and at any time, the grantee has the right to modify its rates and charges including, but not limited to, the implementation of additional charges and rates; provided, however, that the grantee shall give notice to the franchising authority of any such modifications or additional charges 30 days prior to the effective date thereof.
(Ord. 501, passed 4-19-93)

§ 92.48 RENEWAL OF FRANCHISE.

(A) The franchising authority and the grantee agree that any proceedings undertaken by the franchising authority that relate to the renewal of the grantee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act (as such existed as of the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

(B) In addition to the procedures set forth in said Section 626(a), the franchising authority agrees to notify the grantee of its preliminary assessments regarding the identity of future cable- related community needs and interests, as well as, the past performance of the grantee under the then current franchise term. The franchising authority further agrees that such a preliminary assessment shall be provided to the grantee prior to the time that the four month period referred to in Subsection (c) of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this section, the grantee and franchising authority agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the franchising authority and grantee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the franchising authority may grant a renewal thereof. The grantee and the franchising authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.
(Ord. 501, passed 4-19-93)

§ 92.49 CONDITIONS OF SALE.

(A) Except to the extent expressly required by federal or state law, if a renewal or extension of the grantee's franchise is denied or the franchise is lawfully terminated, and the franchising authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the cable system valued as a going concern.

(B) The grantee and franchising authority agree that in the case of a lawful revocation of the franchise, at the grantee's request, which shall be made in its sole discretion, the grantee shall be given a reasonable opportunity to effectuate a transfer of its cable system to a qualified third party. The franchising authority further agrees that during such a period of time, it shall authorize the grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six months from the effective date of such revocation. If, at the end of that time, the grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system which is reasonably acceptable to the franchising authority, the grantee and

franchising authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the grantee's continued operation of its cable system during the six month period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the franchising authority or the grantee. Notwithstanding anything to the contrary set forth in this section, neither the franchising authority nor the grantee shall be required to violate federal or state law.
(Ord. 501, passed 4-19-93)

§ 92.50 TRANSFER OF FRANCHISE.

The grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an affiliate, without the prior consent of the franchising authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the grantee in the franchise or cable system in order to secure indebtedness.
(Ord. 501, passed 4-19-93)

COMPLIANCE AND MONITORING

§ 92.55 TESTING FOR COMPLIANCE.

The grantee shall comply with FCC mandated rules and regulations regarding technical and customer service standards. The franchising authority may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the grantee or the cable system in order to determine whether or not the grantee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving the grantee reasonable notice thereof, not to be less than two business days, and providing a representative of the grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the grantee. In the event that such testing demonstrates that the grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the franchising authority. Except in emergency circumstances, the franchising authority agrees that such testing shall be undertaken no more than two times a year in the aggregate, and that the results thereof shall be made available to the grantee upon the grantee's request.
(Ord. 501, passed 4-19-93)

§ 92.56 BOOKS AND RECORDS.

The grantee agrees that the franchising authority may review such of its books and records, during normal business hours and on a nondisruptive basis, as is reasonably necessary to monitor compliance

with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The franchising authority agrees to treat any information disclosed by the grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.
(Ord. 501, passed 4-19-93)

INSURANCE

§ 92.65 INSURANCE REQUIREMENTS.

The grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise, Comprehensive General Liability Insurance in the amount of $1,000,000 combined single limit for bodily injury, and property damage. Said insurance shall designate the franchising authority as an additional insured. Such insurance shall be noncancellable except upon 30 days prior written notice to the franchising authority.
(Ord. 501, passed 4-19-93)

§ 92.66 INDEMNIFICATION.

The grantee agrees to indemnify, save and hold harmless, and defend the franchising authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the grantee's construction, operation, or maintenance of its cable system, including, but not limited to, reasonable attorney's fees and costs.
(Ord. 501, passed 4-19-93)

§ 92.67 BONDS AND OTHER SURETY.

Except as expressly provided herein, the grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing its existence. The franchising authority acknowledges that the legal, financial, and technical qualifications of the grantee are sufficient to afford compliance with the terms of the franchise and the enforcement thereof. The grantee and franchising authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for cable services. In order to minimize such costs, the franchising authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefor. The franchising authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than $10,000, conditioned upon the substantial performance of the material terms, covenants, and conditions of the franchise. Initially, no bond or other

surety will be required. In the event that one is required in the future, the franchising authority agrees to give the grantee at least 60 days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in the grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the franchise or afford compliance therewith.
(Ord. 501, passed 4-19-93)

ENFORCEMENT

§ 92.75 NOTICE OF VIOLATION.

In the event that the franchising authority believes that the grantee has not complied with the terms of the franchise, it shall notify the grantee in writing of the exact nature of the alleged noncompliance.
(Ord. 501, passed 4-19-93)

§ 92.76 GRANTEE'S RIGHT TO CURE OR RESPOND.

The grantee shall have 30 days from receipt of the notice described in § 92.75:

(A) To respond to the franchising authority contesting the assertion of noncompliance; or

(B) To cure such default; or

(C) In the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the franchising authority of the steps being taken and the projected date that they will be completed.
(Ord. 501, passed 4-19-93)

§ 92.77 PUBLIC HEARING.

In the event that the grantee fails to respond to the notice described in § 92.75 pursuant to the procedures set forth in § 92.76, or in the event that the alleged default is not remedied within 60 days after the grantee is notified of the alleged default pursuant to § 92.75, the franchising authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the franchising authority which is scheduled at a time which is no less than five business days therefrom. The franchising authority shall notify the grantee of the time and place of such meeting and provide the grantee with an opportunity to be heard.
(Ord. 501, passed 4-19-93)

§ 92.78 ENFORCEMENT.

(A) Subject to applicable federal and state law, in the event the franchising authority, after such meeting, determines that the grantee is in default of any provision of the franchise, the franchising authority may:

(1) Foreclose on all or any part of any security provided under this franchise, if any, including without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the franchising authority reasonably determines is necessary to remedy the default;

(2) Commence an action at law for monetary damages or seek other equitable relief;

(3) In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked; or

(4) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

(B) The grantee shall not be relieved of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of the franchising authority to enforce prompt compliance.
(Ord. 501, passed 4-19-93)

§ 92.79 ACTS OF GOD.

The grantee shall not be held in default or noncompliance with the provisions of the franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.
(Ord. 501, passed 4-19-93)

§ 92.80 UNAUTHORIZED RECEPTION.

In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person, firm, or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the cable system without the express consent of the grantee. Further, without the express consent of the grantee, it shall be a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the cable system or any means of receiving cable service or other services provided thereto. Subject to applicable federal and state law, the franchising authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which will enforce the intent of this section.
(Ord. 501, passed 4-19-93)

CHAPTER 93: EMERGENCY MANAGEMENT

Section

Emergency Management Plan

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Cross-reference:
Emergency override of cable television system, see § 92.36

EMERGENCY MANAGEMENT PLAN

§ 93.01 ORGANIZATION.

There exists the office of Emergency Management Director of the city, which shall be held by the Mayor in accordance with state law.

(A) An Emergency Management Coordinator may be appointed by and serve at the pleasure of the Director;

(B) The Director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this ordinance. He or she may delegate authority for execution of these duties to the Coordinator, but ultimate responsibility for such execution shall remain with the Director.

(C) The 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.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.02 EMERGENCY MANAGEMENT DIRECTOR; POWERS AND DUTIES.

The duties and responsibilities of the Emergency Management Director shall include the following:

(A) 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.

(B) Supervision of the development and approval of an emergency management plan for the city, and shall recommend for adoption by the City Council all mutual aid arrangements deemed necessary for the implementation of such plan.

(C) 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 by or 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.

(D) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this chapter. 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.

(E) Direction and control of the operations of the Emergency Management organization as well as the training of Emergency Management personnel.

(F) Determination of all questions of authority and responsibility that may arise within the Emergency Management organization of the city.

(G) Maintenance of liaison with other municipal, county, district, state, regional or federal, Emergency Management organizations.

(H) Marshaling of all necessary personnel, equipment and supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.

(I) 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 county-wide coordination of emergency management efforts.

(J) 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.

(K) Authorizing of agreements, after approval by the City Attorney, for use of private property for public shelter and other purposes.

(L) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.

(M) Other requirements as specified in Texas Disaster Act 1975 (Art. 6889-7, V.T.C.S.).
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.03 EMERGENCY MANAGEMENT PLAN.

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 chapter. As provided by state law, the plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas. 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 chapter and have the effect of law during the time of a disaster.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.04 INTERJURISDICTIONAL PROGRAM.

(A) The Mayor is authorized to join with the County Judge of Wichita County 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 county-wide program of emergency management insofar as the program may affect the city. (Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

(B) Therefore, it is hereby resolved that there is hereby established the Wichita County Emergency Management Organization which shall consist of the officers and employees of the city and of the county as designated in a coordinated Emergency Management Plan, together with such organized volunteer groups as that Plan may specify. It is further resolved that the Mayor of this city and the Wichita County Judge shall each appoint an Emergency Management Coordinator to coordinate between that city and county all aspects of the Burkburnett/ Wichita County program of comprehensive emergency management, including the preparation and maintenance of an Emergency Management Plan for this city and Wichita County. (Joint Res. 123, passed 2-20-90)

§ 93.05 OVERRIDE.

At all times when the orders, rules, and regulations made and promulgated pursuant to this ordinance shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith. (Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.06 LIABILITY.

This chapter is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this chapter 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 or parts 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. (Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.07 COMMITMENT OF FUNDS.

No person shall have the right to expand any public funds of the city in carrying out any emergency management activity authorized by this ordinance 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.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.08 SEVERABILITY.

If any portion of this chapter shall, for any reason, be declared invalid such, invalidity shall not affect the remaining provisions thereof.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.09 CONFLICT WITH STATE OR FEDERAL REGULATIONS.

This chapter shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule, or regulation.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

§ 93.10 VIOLATIONS.

(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 chapter, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this chapter.

(B) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city, unless authority to do so has been granted to such person by the proper officials.

(C) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this chapter and shall be subject to the penalties imposed by this chapter in § 93.99.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93)

BUILDING IDENTIFICATION NUMBERS

§ 93.20 DUTY OF PROPERTY OWNER.

It shall be the duty of the property owner or agents of business or residence buildings to properly number and correctly display identifying numbers on same. Identifying numbers shall be displayed on the property (other than the curb) no later than five days after the building is completed or occupied. The owners, agents, or other persons making repairs or additions to buildings shall cause the identifying numbers to be replaced immediately should repairs or improvements require temporary removal of numbers.
(Ord. 688, passed 2-21-05) Penalty, see § 93.99

§ 93.21 TYPE OF ADDRESS NUMBER.

All numbers on business or residence houses in the city shall be of a figure of not less than three inches in height and approximately two or more inches in width and shall be placed as to be seen plainly from the street. They shall be paid for by the owner or agent of the property. Each number shall be displayed in a manner so that it is visible from the street in front of the property. The numbers shall be of durable material, or they may be painted of neat design. New subdivisions, upon completion of street construction, shall have the address of each residence painted on the curb with letters on a white backing.
(Ord. 688, passed 2-21-05) Penalty, see § 93.99

§ 93.22 COMPLIANCE REQUIRED.

It shall be the duty of the owner or agents of property to comply with this subchapter within 90 days of the adoption of same. No municipal services shall be rendered to any parcel or buildings which do not comply with the addressing and number conditions set forth in this subchapter.
(Ord. 688, passed 2-21-05) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Convictions for violations of the provisions of §§ 93.01 through 93.10 shall be punishable by fine not to exceed $200.

(B) Any person, whether owner, agent, or occupant, who, after 20 days written notice, fails or refuses to number correctly any house or business under his/her control shall be deemed in violation of §§ 93.20 through 93.22 and guilty of a misdemeanor and, upon conviction, shall be fined not less than $25 nor more than $200. Each day of violation beyond the 20-day period shall be deemed a separate offense.
(Ord. 457, passed 2-20-89; Am. Ord. 502, passed 1-18-93; Am. Ord. 688, passed 2-21-05)

CHAPTER 94: FIRE PREVENTION; FIREWORKS

Section

General Provisions

94.01 Burning of trash or garbage
94.02 Storage and handling of agricultural anhydrous ammonia; ANI Standard Number M-1 Code
94.03 Reward for arrest and conviction of person for arson

Fireworks

94.20 Definition
94.21 Discharge of fireworks
94.22 Sale of fireworks
94.23 Exceptions
94.24 Posting of sign at location selling or giving away fireworks
94.25 Set up and removal of temporary fireworks selling facility

94.99 Penalty

Cross-reference:
Parking of trucks and motor vehicles used in transportation of gasoline or liquified petroleum gas, see § 72.07

GENERAL PROVISIONS

§ 94.01 BURNING OF TRASH OR GARBAGE.

It shall be unlawful for any person, firm, or corporation, to burn trash or garbage within the city limits.
(Ord. 244, passed 7-25-60) Penalty, see § 94.99

Cross-reference:
Garbage provisions, see Ch. 51

§ 94.02 STORAGE AND HANDLING OF AGRICULTURAL ANHYDROUS AMMONIA; ANI STANDARD NUMBER M-1 CODE.

(A) There is hereby adopted by the Board of Commissioners for the purpose of prescribing regulations governing the storage and handling of agricultural anhydrous ammonia, that a certain code known as ANI Standard Number M-1, recommended by the Agricultural Nitrogen Institute, successor to the Agricultural Ammonia Institute, being particularly the 1968 edition thereof, and the whole thereof and its future amendments of which code a copy has been and is now filed in the office of the City Clerk, and the same are hereby adopted and incorporated as fully as if set out at length herein, the provisions thereof shall be controlling within the corporate limits of the city.

(B) No person shall install any tank, container, or equipment for the storing or consumption of agricultural anhydrous ammonia, or install any piping for the transfer of agricultural anhydrous ammonia on any premises within the city, until such person shall have secured

a permit from the city. Prior to the installation of any agricultural anhydrous ammonia installation within the city, plans and specifications for such installation shall be submitted to the Fire Marshal's office for tentative approval. Final approval will follow a physical inspection of the completed installation by the Fire Marshal.

(C) Should any person, firm, or corporation fail to comply with the safety standards set out in the ANI Standard M-1 at any time, their permit will be revoked until such violations have been corrected.
(Ord. 302, passed 10-29-69) Penalty, see § 94.99

§ 94.03 REWARD FOR ARREST AND CONVICTION OF PERSON FOR ARSON.

The city hereby offers a reward of $250 to anyone who secures and furnishes information necessary to and which results in arrest and conviction of any person who commits 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.
(Ord. 262, passed 7-23-62; Am. Ord. 455, passed 12-19-88)

FIREWORKS

§ 94.20 DEFINITION.

For the purpose of this subchapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

"PERSON." A human being, a firm, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
(Ord. 427, passed 1-20-86)

§ 94.21 DISCHARGE OF FIREWORKS.

No person shall throw or explode any firecrackers, Roman candles, skyrockets, torpedoes, grenades, or other combustible fireworks of any kind within the city limits.
(Ord. 427, passed 1-20-86; Am. Ord. 890, passed 12-21-15) Penalty, see § 94.99

§ 94.22 SALE OF FIREWORKS.

No person shall exhibit or have in his or her possession with the intent to give away or sell or offer for sale any firecrackers, Roman candles, skyrockets, torpedoes, grenades, or other combustible fireworks within the city limits during a period in which the County Commissioners' Court has issued a burn ban in and for the county. However, this section shall not apply to the legitimate sale of any such articles by wholesalers to each other or to the sale of such articles at wholesale entirely without the jurisdiction of the city, or to the sale by wholesalers for private or public demonstration as hereinafter provided.
(Ord. 427, passed 1-20-86; Am. Ord. 890, passed 12-21-15) Penalty, see § 94.99

§ 94.23 EXCEPTIONS.

Nothing in this subchapter shall be construed to apply to the sale, storage, or use of railroad track torpedoes, or other signaling devices used by railroads; nor to the sale, storage, or use of flashlight composition by photographers or dealers in photographic supplies; or prevent any public or private demonstration or display of fireworks of any kind if conducted under proper police supervision after application has been made and a permit issued by the Chief of the Fire Department, for such demonstration or display, and shall be of such a character, and so located, discharged, or fired, as in the opinion of the Chief of the Fire Department after proper inspection so as not to be hazardous to property or endanger any persons.
(Ord. 427, passed 1-20-86)

§ 94.24 POSTING OF SIGN AT LOCATION SELLING OR GIVING AWAY FIREWORKS.

(A) Each individual or entity selling, giving away or offering for sale fireworks within the city limits shall display signs of at least one foot by two feet, containing the following language:

> The throwing or exploding of any firecrackers, Roman candles, skyrockets, torpedoes, grenades or other combustible fireworks within the City limits of the City of Burkburnett is a violation of the Burkburnett Code of Ordinances and a misdemeanor punishable by a fine of up to $500.00.

(B) Every entity or individual selling, giving away or offering for sale fireworks within the city limits shall display such signs on each side of the building out of which fireworks are sold, and display the signs in a manner that can be easily seen by individuals purchasing fireworks. The entity or individual selling, giving away or offering for sale fireworks within the city limits shall also provide each individual who buys or receives fireworks from them a notice, printed on a piece of paper, at least 5½" by 8½", with the above language in at least Times New Roman 26-point font.
(Ord. 890, passed 12-21-15)

§ 94.25 SET UP AND REMOVAL OF TEMPORARY FIREWORKS SELLING FACILITY.

Every entity or individual selling fireworks within the city limits is prohibited from placing or setting up any temporary facility placed or erected for the purpose of selling fireworks prior to five days before the date on which firework sales are allowed by state law. Every entity or individual selling fireworks within the city limits must completely remove any temporary facility placed or erected for the purpose of selling fireworks no later than five days after to the date on which firework sales are no longer allowed by state law. For the purposes of this section, a "FACILITY" is any structure that does not conform to the city building code and has not been issued a building permit and certificate of occupancy by the city.
(Ord. 890, passed 12-21-15)

§ 94.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $500 for each offense. Each day the violation continues shall constitute a new offense.
(Am. Ord. 890, passed 12-21-15)

CHAPTER 95: FOOD REGULATIONS; MILK

Section

United States Public Health Service Food Service Sanitation Ordinance and Code

95.01 Adoption by reference; amendments

Meat, Meat Products, and Meat Food Products

95.15 Adoption of state rules, regulations, and standards for inspection

Milk

95.25 Provisions regulated by state law

Food Vendors and Establishments

95.30 Definitions
95.31 Adoption of Texas food establishment rules
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95.33 Compliance with applicable laws required
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Mobile Food Vendors

95.60 Permit requirements
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95.65 Permit fees

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UNITED STATES PUBLIC HEALTH SERVICE FOOD SERVICE SANITATION ORDINANCE AND CODE

§ 95.01 ADOPTION BY REFERENCE; AMENDMENTS.

The definitions; the inspection of food service establishments; the issuance, suspension, and revocation of permits to operate food service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of this section shall be regulated in accordance with the unabridged form of the most current edition of the "United States Public Health Service Food Service Sanitation Ordinance and Code", three certified copies of which shall be on file in the office of the City Clerk, provided that:

(A) The words "municipality of _____" in said unabridged form shall be understood to refer to the City of Burkburnett, Texas.

(B) The words "Health Authority" shall mean the City of Burkburnett Health Officer, and/or the Wichita Health Unit of Wichita County, Texas or their designated representative or representatives. (Ord. 265, passed 2-4-63) Penalty, see § 95.99

MEAT, MEAT PRODUCTS, AND MEAT FOOD PRODUCTS

§ 95.15 ADOPTION OF STATE RULES, REGULATIONS, AND STANDARDS FOR INSPECTION.

(A) The rules, regulations, and standards for the inspection of meat, meat products, and meat food products, promulgated by the Commissioner of Health of the state, under authority of Art. 4418d,

V.T.C.S., and all future amendments made thereto, are hereby in all things adopted and made a part of this as if set forth in full herein, and the provisions, standards, rules, and regulations contained therein are made mandatory requirements for the inspection and labeling of meat and meat food products produced, sold, or offered for sale within the limits of the city, with the "Texas State Approved Meat for Human Food" label thereon. Any establishment desiring to sell or offer for sale meat, meat products, and meat food products in the city containing thereon the "Texas State Approved Meat for Human Food" label on such meat, meat products, and meat food products shall be governed by the specifications and regulations promulgated by the Commissioner of Health as approved by the State Board of Health adopted herein, and all requirements specified therein shall be complied with.

(B) Only meats bearing the inspection mark, stamp, tag, or label of the United States Department of Agriculture, the State Department of Health, any municipality bearing Texas State Approved legend, or the city shall be acceptable for sale in the city.
(Ord. 305, passed 11-16-70)

MILK

§ 95.25 PROVISIONS REGULATED BY STATE LAW.

The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for the ultimate consumption within the city or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of the "Texas Milk Grading and Labeling Law" and the "Texas Specifications and Requirements," thereunder authorized, and the applicable provisions of the 1965 "Public Health Service Milk Ordinance and Code," certified copies of which shall be filed in the office of the appropriate official; provided, that Section 9 of the "Texas Specifications and Requirements" shall be replaced with: "From and after 30 days from the date on which this ordinance is adopted, only Grade A milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments: Provided, that in an emergency the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority; in which case, such milk and milk products shall be labeled ungraded."
(Ord. 278, passed - -)

FOOD VENDORS AND ESTABLISHMENTS

§ 95.30 DEFINITIONS.

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

"AUTHORIZED AGENT AND EMPLOYEE." An employee of the general environmental health division of the regulatory authority.

"FOOD." A raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption, or chewing gum.

"FOOD ESTABLISHMENT."

(1) An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(a) Such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location (machine); self-service food market; conveyance used to transport people; institution; or food bank; and

(b) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home

delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(2) Includes:

(a) An element of the operation, such as a transportation vehicle or a central preparation facility, that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the regulatory authority; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(3) Does not include:

(a) An establishment that offers only prepackaged foods that are not time/temperature control for safety;

(b) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(c) A food-processing plant;

(d) A "cottage food production operation" as defined by Texas Health and Safety Code § 437.001;

(e) An area where food that is in a cottage food production operation is sold or offered for human consumption;

(f) A "bed and breakfast limited" facility as that phrase is defined by 25 Texas Administrative Code § 228.2, if the consumer is informed by statements contained in published advertisements, mailed brochures, or placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Wichita City/County Public Health District; or

(g) A private home that receives catered or home-delivered food.

"FROZEN DESSERT(S)." Soft serve and frozen yogurt.

"FROZEN DESSERT PRE-MIX." Any raw dairy-based product used to create a frozen dessert.

"FROZEN YOGURT." A food produced by the bacterial fermentation of milk and served frozen or partially frozen.

"HIGHLY SUSCEPTIBLE POPULATION." Persons who are more likely than other people in the general population to experience food-borne disease because they are:

(1) Immunocompromised; preschool age children, or older adults; and

(2) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as but not limited to, a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

"IMMINENT HAZARD TO PUBLIC HEALTH." A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness based on:

(1) The number of potential illnesses; and

(2) The nature, severity, and duration of the anticipated illnesses.

"LABORATORY." A biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

"MOBILE FOOD PUSHCART." A non-self-propelled mobile food unit limited to serving foods requiring a limited amount of preparation as authorized by the regulatory authority, and that is readily movable by one or two persons. A pushcart is classified as a mobile food unit. A pushcart does not include non-self-propelled units owned and operated within a retail food store. This type of mobile unit requires the support of a central preparation facility.

"MOBILE FOOD UNIT (MFU)." A vehicle-mounted, self- or otherwise propelled, self-contained food service operation, designed to be readily movable (including but not limited to, catering trucks, trailers, push carts, and roadside vendors), and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A "MOBILE FOOD UNIT" does not mean a stand or a booth. A roadside food vendor is classified as a "MFU".

"MOBILE FOOD UNIT OPERATION." The business of a mobile food unit or mobile food pushcart.

"PERSON IN CHARGE (PIC)." The individual present at a food establishment who is responsible for the operation at the time of inspection.

"PROCESS." The method or amount of preparation of food utilized by a food establishment before the food is provided to the individual who will consume it.

"REGULATORY AUTHORITY." The city-county public health district.

"SOFT SERVE." A food similar to ice cream which is created by the combination of air and dairy-based ingredients in a machine at the point of sale.

"STATE RULES." The state rules found at 25 Texas Administrative Code, §§ 228.1, 228.2, 228.31 - 228.45, 228.61 - 228.83, 228.101 - 228.125, 228.141 - 228.154, 228.171 - 228.186, 228.201 - 228.213, 228.221 - 228.225, 228.241 - 228.257, and 228.271 - 228.278. These rules are also known as the Texas Food Establishment Rules.

"VEND" and "VENDING." To sell, serve or otherwise provide food for human consumption.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.31 ADOPTION OF TEXAS FOOD ESTABLISHMENT RULES.

The city adopts by reference the provisions of the current rules or the rules as amended by the State Board of Health found in 25 Texas Administrative Code, §§ 228.1, 228.2, 228.31 - 228.45, 228.61 - 228.83, 228.101 - 228.125, 228.141 - 228.154, 228.171 - 228.186, 228.201 - 228.213, 228.221 - 228.225, 228.241 - 228.257, and 228.271 - 228.278, regarding the regulation of food establishments.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.32 CLEANING STANDARDS FOR COMMERCIAL COOKING EQUIPMENT ADOPTED.

All food equipment in use for commercial cooking within the city must be certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program. Standards applicable to the materials, design and construction of commercial cooking equipment shall apply only to equipment installed after December 3, 2009.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.33 COMPLIANCE WITH APPLICABLE LAWS REQUIRED.

All persons who manage, operate, accept employment in, or are employed in any food establishment shall comply with all applicable federal and state statutes and regulations, and with all applicable sections of this code and city ordinances.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.34 PERMIT REQUIRED.

(A) A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this subchapter. A valid permit must be posted per § 95.36 in or on every food establishment regulated by this subchapter.

(B) Application and renewal.

(1) Any person desiring to operate a food establishment must make written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food

establishment, and any information required by § 95.36. The application must be submitted with the applicable fee. An incomplete application will not be accepted.

(2) Failure to provide all required information or falsifying information required may result in denial or revocation of the permit.

(3) All permits issued under this section shall remain in force for one year from the date of issuance unless revoked or suspended by the regulatory authority. Permit fees shall be paid to the regulatory authority at the time of application for initial permits and 15 days prior to permit expiration for renewal permits. All permit holders, including non-profits, that submit renewal applications and or fees after the permit expires will be assessed a late charge. A complete application with updated information is required for each renewal permit. Any changes to the physical facility, menu or equipment must be reported to the regulatory authority when renewing permits.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.35 PERMIT ISSUANCE.

Prior to the approval of an initial food establishment permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with applicable laws and state rules. A food establishment that does not comply with applicable laws and state rules will be denied a permit or the renewal of a permit.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.36 COMPLIANCE REQUIRED; POSTING; TERM; FEE.

(A) Only persons who comply with the requirements of this subchapter shall be entitled to receive and retain a permit required by this section. Such permit shall be posted in a conspicuous place in public view in or on the food establishment. All permits issued under this section remain in force one year from the date of issuance unless revoked or suspended.

(B) The following permits will be issued under this section:

(1) Process 1: low to moderate risk. This process involves food sale with or without preparation and includes no cooking. Generally, the steps in this process are: Receive → Store → Prepare → Hold → Serve → Vend.

(2) Process 2: high risk. This process involves food preparation for same day service. Generally, the steps in this process are: Receive → Store → Prepare → Cook → Hold → Serve.

(3) Process 3: very high risk. This process involves complex food preparation. Generally, the steps in this process are: Receive → Store → Prepare → Cook → Cool → Reheat → Hot Hold → Serve. Additionally, this process permit is required for:

(a) Any prepared foods that require a "hazard analysis critical control point plan" as defined by 25 Texas Administrative Code § 228.2(64).

(b) Any foods prepared for highly susceptible populations; or

(c) Foods determined by the health district to be very high risk.

(4) Temporary events. These events last no more than seven consecutive days, and applicants are limited to seven temporary event permits per year. No annually permitted establishment shall allow temporary event food vending at their site unless a temporary event application has been submitted to the regulatory authority.

(5) Seasonal permit. Any facility that operates for a period of no more than six consecutive months out of a 12-month period from January to December, and has a limited menu that does not offer very high risk foods, may apply for a seasonal permit instead of a Process 1 or 2 permit.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.37 REVIEW OF PLANS.

(A) Whenever a food establishment is constructed or more than 20% of its square footage is remodeled, or whenever an existing structure is converted to use as a food establishment, plans and specifications properly prepared for such construction, remodeling or conversion shall be submitted to the City Building Inspection Division for dissemination to the regulatory authority for review before work is begun, except mobile food units which shall submit plans directly to the regulatory authority. If the structure is over 2,500 square feet or the cost of the structure exceeds $50,000, the plans must be submitted by an architect or engineer. The submitted 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. Every commissary shall additionally submit plans showing refrigerated and dry storage areas reserved for mobile unit use. Food establishments that have been closed and are being reopened under new management as the same type of establishment shall be required to submit new equipment specifications and a floor plan of the food establishment. The regulatory authority shall approve the plans and specifications if they meet the requirements of the rules adopted by this subchapter. 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.

(C) The regulatory authority may collect fees in consideration of reviewing plans.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.38 SUSPENSION.

(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. A supervisor at the regulatory authority will confirm the hazard before suspension is effective, when possible. Suspension is effective upon service of the written notice required by this section. When a permit is suspended, food operations shall immediately cease. The regulatory authority may end the suspension at any time if the reason for suspension no longer exists.

(B) Whenever a permit is suspended, the holder of the permit or the person in charge of the food establishment at the time of suspension shall be notified in writing that the permit is, upon service of the notice, immediately suspended. Opportunity for a hearing will be provided if the holder of the permit files a written request with the regulatory authority within ten days of receipt of written notice of suspension. Whenever a permit is suspended and a request for hearing made, the holder of the permit shall be afforded a hearing within 20 days of the receipt by the regulatory authority of a request for a hearing. If no written request for a hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.39 REVOCATION OF PERMIT.

The regulatory authority may, after providing opportunity for a hearing, revoke a food establishment permit for serious or repeated violations of any of the requirements of this subchapter, 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 of the food establishment at the time of revocation, in writing, of the reason for which the permit is subject to revocation. The permit shall be revoked at the end of ten days following service of such notice, unless the holder of the permit files a written request for a hearing with the regulatory authority within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the permit becomes final.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.40 SERVICE OF NOTICE; CONDUCT OF HEARINGS.

(A) A notice as required in this section is properly served when it is delivered to the holder of the permit or the person in charge of the food establishment at the time of the notice, 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 regulatory authority shall conduct the hearings provided for in this section at a time and place designated by the regulatory authority. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings and shall sustain, modify or rescind any notice or order considered in the hearing. The regulatory authority shall furnish a written report of the hearing decision to the holder of the permit.

(C) The regulatory authority may charge re-inspection fees for compliance inspections scheduled as a result of a revocation hearing that may require additional inspections.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.41 FROZEN DESSERT STANDARDS.

(A) All frozen desserts must meet the following standards:

(1) Maximum temperature: 41°F;

(2) Maximum total coliform: 150/ml.

(B) All soft serve must meet the following standard: Maximum standard plate count: 200,000/ml.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.42 FROZEN DESSERT CERTIFICATION REQUIRED.

(A) Every food establishment that prepares, serves, provides, sells, displays or stores for future sale, or offers for sale frozen desserts for human consumption must have a frozen dessert certification in addition to its permit, regardless of permit category.

(B) In order to receive and maintain frozen dessert certification:

(1) One employee from each mobile, stationary, temporary, seasonal or permanent facility or location must attend and successfully complete frozen dessert training. Such training is good for two years. The regulatory authority will provide frozen dessert training four times a year to provide instruction in general operation, cleaning and maintenance procedures.

(2) At least one sample of any frozen dessert pre-mix and one sample of any final frozen dessert product shall be sampled annually by the regulatory authority from each machine operated by a food establishment. Each sample will be submitted to an approved laboratory for analysis of its content.

(3) If any samples collected from a food establishment are not within the standards established in § 95.41, additional samples will be collected and an inspection of the equipment and facility will be conducted to determine the reason for the violation of the standards. No food establishment shall adopt any procedures that would

result in repeated failures of the first samples collected for any annual inspection. Two consecutive frozen dessert samples determined by laboratory analysis to be above the limits of the standards will result in suspension of the permit to operate the food establishment or suspension of the frozen dessert certification. A resample and inspection fee will be charged for each consecutive inspection and sample tested after a permit or certification has been suspended.

(C) The certification shall be posted in a conspicuous place in public view.

(D) All certifications issued under this section shall remain in force for one year from the date of issuance unless revoked or suspended.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.43 SUSPENSION, REVOCATION AND REINSTATEMENT OF FROZEN DESSERT CERTIFICATION.

(A) A frozen dessert certification issued under this subchapter may be suspended or revoked by the regulatory authority upon the violation by the holder of any of the terms of this subchapter.

(B) Any person or food establishment whose frozen dessert certification has been suspended or revoked shall immediately discontinue the preparation, service, provision, sale, display or storage for future sale of frozen dessert until the defects that caused the suspension have been corrected and the certification reinstated. Following correction, the applicant may request reinstatement of the certification by the regulatory authority. The regulatory authority may require the certification holder to demonstrate proper cleaning procedures and maintenance of the frozen dessert equipment before reinstating the certification.

(C) Notice of suspension or revocation, and the conduct of hearing for any suspension or revocation of a frozen dessert certification shall be conducted under the procedures established in §§ 95.38 through 95.40.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.44 LABELING.

All frozen dessert products and frozen dessert pre-mix not sold at the point of manufactured origin must be properly labeled according to current Food and Drug Administration guidelines.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.45 VENDING WITHOUT CERTIFICATION.

It shall be unlawful for any person to prepare, serve, provide, sell, display or store for future sale, or offer for sale frozen desserts at a food establishment that does not hold a current frozen dessert certification.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.46 POSSESSION OR RECEIVING FROM MANUFACTURER WITHOUT CERTIFICATION.

It shall be unlawful for any person to receive into the city for sale, to offer for sale in the city, or to have in storage for future sale ice cream mix or frozen dessert pre-mix without first applying for all required permits and certifications from the regulatory authority. (Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.47 FOOD HANDLER TRAINING CERTIFICATE.

It shall be unlawful for any person to accept employment in any food establishment without securing from the regulatory authority a food handler's training certificate. It shall be unlawful for any person operating or managing any food establishment to employ or retain any person or allow any person to work as a food handler, unless that person has obtained either a current temporary receipt issued under § 95.49 or a current food handler's training certificate.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.48 APPLICATION.

(A) The regulatory authority may administer a food handler's training certificate and food protection manager's certificate program. Any person who is required to have a food handler's training certificate under this subchapter shall attend and successfully complete a training approved by the regulatory authority, the Texas Department of State Health Services, or a course accredited by the American National Standards Institute.

(B) It is the responsibility of the person in charge of the food establishment to keep a certificate of completion of the training course for all employees of the food establishment available on site for compliance review by the inspector.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.49 TEMPORARY RECEIPT; ISSUANCE.

(A) When an applicant for a certificate required by this subchapter makes application to the regulatory authority, a temporary receipt, valid for 30 calendar days, will be issued to the applicant to allow the applicant to continue employment at a food establishment while completing the course required by § 95.48. Applicants are limited to one temporary receipt. If an applicant has not successfully completed the training course by the time the temporary receipt expires, he or she cannot continue employment as a food handler.

(B) Upon successful completion of the training course, the regulatory authority will issue a food handler's training certificate, which shall expire two years from the date of the food handler's certificate application.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.50 TRAINING COURSES ACCEPTED.

The regulatory authority shall accept training issued by all companies or programs approved by the Texas Department of State Health Services under 25 Texas Administrative Code § 228.33.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.51 FEE.

A fee shall be charged by the health district for completing the food handler's training certificate and maintaining records. There shall be a charge for replacement cards.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

§ 95.52 RECORDS TO BE KEPT.

It shall be the duty of the regulatory authority to provide for the keeping of a permanent record, together with the date of issuance of all permanent food handlers' certificates issued to a person under this subchapter. All other food handler's certificate records shall be kept for a period of not less than five years.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

MOBILE FOOD VENDORS

§ 95.60 PERMIT REQUIREMENTS.

(A) No person shall operate a mobile food unit who does not possess a valid, current mobile food unit permit from the regulatory authority as provided in this subchapter. The permit for a mobile food unit shall specify the type of food to be vended, the manner in which the food is to be vended, and include a description of any vehicle or pushcart to be used in the food vending operation.

(B) A person seeking a mobile food unit permit from the regulatory authority shall make application on a form provided by the regulatory authority, and shall provide all of the following information listed below as part of the application:

(1) The name and address of the owner and operator;

(2) A copy of a current driver’s license of the owner and operator, if the mobile food unit is to be powered by a motor or towed;

(3) If the applicant represents a corporation, limited liability company, association, or partnership, the names and addresses of the persons responsible for the entity’s operations;

(4) The name under which the mobile food unit will be operated;

(5) A description of the type of food or the specific foods to be vended;

(6) The manner of mobile food vending operation to be conducted;

(7) A description of all vehicles to be used in the mobile food unit operation, along with the license or registration and vehicle identification number of the vehicles, and a copy of the current certificate of liability for all vehicles;

(8) The address and food establishment permit number of the central preparation facility for all vehicles to be used in the mobile food unit operation; and

(9) Any other information required by the regulatory authority as it pertains to the safe operation of the mobile food unit.

(C) Upon receiving a proper application for a mobile food unit permit, the regulatory authority shall inspect the location, food, equipment, vehicles and other reasonable matters concerning the mobile food unit operation, and shall issue a permit and a sticker only if:

(1) The application complies with division (B);and

(2) The inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and city ordinances governing the proposed mobile food unit operation.

(D) Fees shall be determined by the risk process level appropriate for the establishment, and shall be in addition to any central preparation facility fees.

(E) A valid permit sticker shall be displayed by a mobile food unit.

(F) Mobile food unit permits shall be valid for one year from the date of issuance unless suspended or revoked.

(G) Mobile food unit permits shall not be transferred or assigned, and shall be considered revoked should the character of the food vending operation be changed from that specified in the permit.

(H) Every mobile food unit permit shall be renewed each year in like manner as the original permit application.

(I) The regulatory authority shall make routine, unannounced inspections of mobile food units, mobile food pushcarts, and commissaries when applicable, to determine whether or not the operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this subchapter, other applicable city ordinances, and state and federal statutes, regulations and rules.

(J) The regulatory authority may take and retain samples of food and other substances used in the preparation of food and examine them for the detection of unwholesome and deleterious qualities. The

regulatory authority may condemn and forbid the sale of, or cause to be removed or destroyed, any food that is adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean or deleterious to health. The owner, operator or other person in charge of such food shall immediately and in the presence of the regulatory authority, destroy such adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean food as directed by the regulatory authority.
(Ord. 892, passed 11-16-15)

§ 95.61 OPERATION REQUIREMENTS AND RESTRICTIONS.

Mobile food units are subject to the following requirements and restrictions unless specifically addressed otherwise:

(A) It shall be unlawful to operate any mobile food unit handling "Time/Temperature Control for Safety (TCS) food" as defined by 25 Texas Administrative Code § 228.2(144), unless the mobile food unit is commercially manufactured.

(B) It shall be unlawful for a person to vend on any portion of city streets where the speed limit exceeds 30 miles per hour or on four-lane divided roadways.

(C) It shall be unlawful for a person to vend from a mobile food unit within an "active school crossing zone" as defined by the Texas Transportation Code.

(D) It shall be unlawful for a person to vend from a mobile food unit unless the mobile food unit is lawfully parked or stopped.

(E) It shall be unlawful for a person to vend from the side of the mobile food unit facing moving traffic. Mobile food units shall vend from as near as possible to the curb or edge of the street.

(F) It shall be unlawful for a person to vend from a mobile food unit to a person standing in the roadway.

(G) It shall be unlawful for a person to stop a mobile food unit on the left side of a one-way street to vend.

(H) It shall be unlawful for a person to vend from a mobile food unit on a street unless there is a clear view of the mobile food unit for a distance of 200 feet in each direction.

(I) It shall be unlawful for a person to make any alteration, removal, attachments, placement or change in, under or upon a mobile food unit that would prevent or otherwise reduce ready mobility.
(Ord. 892, passed 11-16-15)

§ 95.62 SANITATION REQUIREMENTS FOR ALL MOBILE FOOD UNITS.

Mobile food units (including mobile food pushcarts) shall comply with the following requirements. These requirements pertain to all such establishments unless specifically addressed otherwise:

(A) Mobile food units shall comply with all sanitation and construction regulations as outlined in 25 Texas Administrative Code Rule 228.221 as adopted in this chapter unless specifically addressed in this section.

(B) A mobile food unit shall be operated from a central preparation facility and shall report to the central preparation facility each day of operation for all cleaning and servicing operations. The mobile food unit shall acquire needed supplies from the central preparation facility or other approved source. The mobile food unit shall provide documentation of each visit to the central preparation facility, and shall have that documentation available for inspection. Mobile food units dispensing fresh fish and shrimp, prepackaged novelty ice cream, whole, uncut fruit and vegetables and individual portion size nonperishable foods such as pickles, candy, peanuts, including snow cones, shaved ice and raspas, are exempt from this provision.

(C) Certain foods shall require additional equipment or sanitation procedures to ensure safety.

(1) Mobile food units that sell snow cones, shaved ice, or raspas shall provide a gravity-fed, hand-washing system, soap, and paper towels at the establishment. Such establishments shall be designed so as to enable the operator of the unit to protect the equipment, syrup, ice and utensils used in the operation of the unit from dust, insects and rodents while the unit is in transit or overnight storage.

(2) Mobile food units or mobile food pushcarts that sell shrimp, fish, shellfish, or crusteacea shall ensure that all such products are safe for human consumption, from an approved source, in sound condition, and free from spoilage, filth, or any other type of contamination. Shrimp shall be maintained at 41°F or below, and stored in either a mechanical refrigeration unit, or in ice in a clean and sanitized container with a lid. Ice must be from an approved source. Additionally, the establishment must install a three-compartment sink, plumbed with hot (minimum 110°F) and cold running water under pressure, for the purpose of cleaning and sanitizing the food contact surfaces of equipment and utensils. A handwash sink "equipped to provide water at a temperature of at least 100°F through a mixing valve or combination faucet" shall also be provided and furnished with soap and paper towels.

(D) Liquid waste resulting from any mobile vending operation shall be stored in permanently installed retention tanks of at least 15% larger capacity than the water supply tank, but of no less than 30-gallon capacity, and shall be drained and thoroughly flushed during servicing operations. All liquid waste shall be discharged to an approved sanitary sewage disposal system at the central preparation facility.

(E) All food that requires packaging or advance preparation by the mobile food unit shall be processed in the central preparation facility.

(F) Mobile food units that are parked and engaged in operations shall provide waste containers for customers sufficient to handle the volume of waste generated by the mobile food unit. Waste containers shall be emptied or disposed of at the central preparation facility. (Ord. 892, passed 11-16-15)

§ 95.63 SANITATION REQUIREMENTS FOR MOBILE FOOD UNITS WITH FACILITIES TO PREPARE FOOD.

Mobile food units preparing and vending food on-site, commonly referred to in the trade as "hot trucks," shall comply with the following additional requirements:

(A) A mobile food unit servicing area shall be provided at the central preparation facility, and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.

(B) The central preparation facility will provide a date and time device, with associated means to record the date and time, and require each mobile food unit that is serviced to document the date and time of arrival and departure from the central preparation facility. The mobile food unit will make available for inspection the record of the date and time of the servicing at the central preparation facility.

(C) Approved water storage facilities for potable water shall be provided on the mobile food unit and shall be of sufficient capacity (minimum 25 gallons) to furnish enough water for food preparation, utensil cleaning and sanitizing, and hand washing. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease; it shall be kept capped when not being used to fill the storage facility. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water and gas distribution pipes or tubing shall be constructed and installed in accordance with public health and plumbing standards as set out by the ordinances of the city. The water for these operations shall be from an approved source.

(D) Either of the following shall be provided by the mobile food unit for its operations:

(1) A heating device of sufficient capacity to produce 110°F hot water; or

(2) An instantaneous heater capable of producing 110°F hot water.

(E) All operations related to the preparation of food shall be carried on from within the mobile food unit.

(F) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.
(Ord. 892, passed 11-16-15)

§ 95.64 SANITATION REQUIREMENTS FOR MOBILE FOOD PUSHCARTS.

In addition to those requirements applicable to all mobile food units, the following requirements shall be met by mobile food pushcarts:

(A) All equipment utilized in the mobile food pushcart shall have prior approval of the regulatory authority.

(B) Snow cone, shaved ice, and raspa vendors shall provide a gravity-fed, hand-washing station on the mobile food pushcart. Soap and paper towels are to be provided. Waste water from hand washing is to be collected in a sealable container and disposed of in a sanitary sewer.

(C) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.

(D) The mobile food pushcart shall be located in clean surroundings, on concrete, brick or equally impervious ground, and maintained in a clean and sanitary condition.

(E) It shall be unlawful for a mobile food pushcart to operate on the public streets.

(F) The mobile food unit pushcart shall be cleaned and serviced at the central preparation facility at the beginning of each day, and shall be stored inside a building when not in operation. The mobile food unit shall acquire needed supplies from the central preparation facility or other approved source. The mobile food unit shall provide documentation of each visit to the central preparation facility, and shall have that documentation available for inspection.

(G) Each mobile food pushcart vending food in storage containers open to the air shall:

(1) Provide only single-service articles for use by consumers; and

(2) Set aside a separate space for non-food-related items.

(H) Each mobile food pushcart shall have a stainless steel hand wash lavatory and a stainless steel sink, with a minimum of two compartments when utensil washing is required. Both must provide adequate amounts of hot and cold water under pressure, and access shall be provided to a supply of paper towels, soap, and detergent. Each mobile food pushcart shall also have adequate drain board space. This division does not apply to mobile food handcarts vending only prepackaged food products.

(I) Each mobile food pushcart shall provide and have available for the public a fly-proof, lidded trash container for the disposal of refuse. The trash container may be either on the mobile food pushcart or located conveniently nearby.

(J) Each mobile food pushcart employing butane or propane tanks shall comply with any and all applicable Fire Department regulations. Ground fault interrupters may be required by the Fire Department as a safety feature to prevent electrical shock. Each mobile food pushcart subject to these requirements shall be equipped with an approved fire extinguisher with a 2A 10BC rating.

(K) When the mobile food pushcart is operated outside, a cleanable canopy shall extend over the mobile food pushcart and cover its top surface.

(L) No advertising shall be permitted on any mobile food pushcart except for the posting of prices, the identification of the name of the product, and the name of the vendor.
(Ord. 892, passed 11-16-15)

§ 95.65 PERMIT FEES.

The Wichita Falls/Wichita County Local Public Health District shall be authorized to collect fees for permits annually.
(Ord. 892, passed 11-16-15)

§ 95.99 PENALTY.

Any violation of §§ 95.31 through 95.52 or 95.60 through 95.65, including a violation of the rules adopted by reference pursuant to §§ 95.31 through 95.33, shall be a Class C misdemeanor punishable by a fine. Each day upon which a violation occurs shall constitute a separate violation.
(Ord. 775, passed 3-15-10; Am. Ord. 892, passed 11-16-15)

CHAPTER 96: NUISANCES

Section

96.01 Definitions
96.02 Public nuisances prohibited
96.03 Abatement procedure; service of notice
96.04 Refusal to abate nuisance; costs to city; privilege lien
96.05 Enumerations of nuisances cumulative

96.99 Penalty

§ 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ANY AND ALL OTHER OBJECTIONABLE, UNSIGHTLY, OR UNSANITARY MATTER OF WHATEVER NATURE." All uncultivated vegetable growth, objects and matter not included within the meaning of the other terms, and herein used, or any other matter or thing which is liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition.

"BRUSH." All trees or shrubbery under seven feet in height which are not cultivated or cared for by persons owning or controlling the premises.

"LOT, PARCEL or REAL ESTATE." In addition to those grounds within their respective boundaries, all lots or parcels of ground lying and being adjacent thereto and extending beyond the property line of any such lot or parcel of real estate to the curb line of adjacent streets where the curbline has been established and 14 feet beyond the property line where no curbline has been established and also to the center of adjacent alleys.

"RUBBISH." All refuse, tin cans, old vessels of all sorts, useless articles, discarded clothing, and textiles of all sorts, and in general all litter and other things usually included within the meaning of the term.

"WEEDS." All rank and uncultivated vegetable growth or matter which has grown to more than nine inches in height, or which, regardless of height, is liable to become an unwholesome mass or breeding place for mosquitoes or vermin.
(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93; Am. Ord. 823, passed 11-19-12)

§ 96.02 PUBLIC NUISANCES PROHIBITED.

(A) The existence of weeds, rubbish or any other objectionable, unsightly and unsanitary matter of whatever nature covering or partly covering the surface of any lot, parcel or real estate within the city is hereby declared a nuisance.

(B) The existence of any condition on any lot, parcel or real estate within the city which is liable to cause disease or produce, harbor or spread disease germs of any nature, or tends to render the surrounding atmosphere unhealthy, unwholesome, or obnoxious, is hereby declared a nuisance.

(C) It shall be unlawful for any person:

(1) To allow any condition deemed a nuisance to exist on any lot, parcel or real estate which is owned or occupied by such person, or

(2) To recreate a condition deemed a nuisance on any property located within the city limits.

(D) That no person, firm, or corporation shall hereafter deposit, place, or dump or cause to be deposited, placed or dumped, any trash, refuse, debris, tin cans, glass, worn out automobile parts, waste material of any kind or character upon the streets, alleys, or public lands within the city limits.

(E) That no person, firm or corporation shall hereafter intentionally deposit, place, or dump or cause to be deposited, place or dumped, any grass clipping, leaves, or yard waste material of any kind or character upon the streets, alleys, or public lands within the city limits.
(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93; Am. Ord. 623, passed 11-19-01; Am. Ord. 823, passed 11-19-12) Penalty, see § 96.99

§ 96.03 ABATEMENT PROCEDURE; SERVICE OF NOTICE.

(A) Whenever the existence of any such nuisance, as herein defined, on any lot or parcel or real estate situated In the city shall come to the knowledge of the City Health Officer, or the Wichita County Health Unit, or the City Manager, or any designated agent appointed or employed by the City Manager, it shall be his duty and he shall cause a written notice identifying such property to be issued forthwith to the person owning or having possession or control of same requiring the abatement of such nuisance by grubbing and removing such weeds, brush, rubbish, or other objectionable, unsightly or unsanitary matter of whatever nature, as the case may be. Such notice shall also state that in default of abatement by him within ten days from the date of the notice, the city may cause the same to be done and pay therefore and charge the cost and expense incurred in having such work done for improvements made to the owner of such property and fix a lien on such property. The City Health Officer or his duly authorized representatives, shall compile the cost of such work done and improvements made in abating such nuisance, and shall charge the same against the owner or possessor of the property. Before the city files a lien on such property as hereinafter provided it shall send a statement to the property owners or persons having possession and/or control of said property, and thereafter if the charges are not paid, then the lien shall be filed, including a $100 administration fee.

(B) The notice, as required above, shall be in writing and either served personally or sent by letter addressed to the owner of the lot or parcel of real estate at his post office address or publication in a newspaper of general circulation in the city two times within ten consecutive days, if personal service may not be had, as aforesaid, or if the owner's address be unknown.
(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93; Am. Ord. 823, passed 11-19-12) Penalty, see § 96.99

§ 96.04 REFUSAL TO ABATE NUISANCE; COSTS TO CITY; PRIVILEGE LIEN.

(A) In the event the owner shall fail or refuse to abate the nuisance within the time required in § 96.03, the city may cause the nuisance to be abated and when the same is done the City Health Officer or his duly authorized representatives shall compile the cost of such work done or improvements made in abating such nuisance and shall charge such costs against the owner of such premises, as provided for in § 96.03.

(B) A certified copy of such costs shall also be filed with the County Clerk of Wichita County and when the same his so filed the city shall have a privilege lien upon such lot or parcel of real estate, second only to tax liens and liens for street improvements, to secure the expenditures so made, and 10% interest on the amount from the date of such payment, after the fixing any such lien, as aforesaid, and for any such expenditures, and interest, as herein before set out, suit may be instituted and recovery and foreclosure had in the name of the city in any court of competent jurisdiction, and in any such suit or action, the statement of charges ,so made, as aforesaid, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work or improvements.
(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93; Am. Ord. 823, passed 11-19-12) Penalty, see § 96.99

§ 96.05 ENUMERATIONS OF NUISANCES CUMULATIVE.

The enumerations of the nuisances and the remedy for abating the same, as set out in this chapter, shall not be exclusive, but cumulative.
(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93; Am. Ord. 823, passed 11-19-12)

§ 96.99 PENALTY.

Any person, or persons, or firm, or corporation who violates any of the provisions of this chapter or who fails to comply with this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fine a sum of not less than $25 and not more than $200 for each offense and each day's continuance of failure to comply therewith shall constitute a separate and distinct offense for each day.
(Ord. 432, passed - -86; Am. Ord. 509, passed 7-19-93; Am. Ord. 823, passed 11-19-12)

CHAPTER 97: PARKS AND RECREATION

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GENERAL PROVISIONS

§ 97.01 HOURS OF OPERATION; OVERNIGHT CAMPING.

(A) All city parks shall be closed every day from 10:00 p.m. until 5:00 a.m.

(B) The Burkburnett Skate Park shall be closed every day from 10:00 p.m. until 8:00 a.m.

(C) It shall be unlawful for anyone to be present in a city park or to use any improvements in a city park during such period when they are closed. If the City Manager or their designee, upon receipt of a written application for park use after hours, determines, in consultation with the Chief of Police or their designee, that such activity will not create a disturbance or public nuisance, the City Manager or their designee shall have authority to issue a special permit for such activity

(D) The city may close any park or all parks at its discretion. (Ord. 629, passed 3-4-02; Am. Ord. 656, passed 4-21-03; Am. Ord. 949, passed 6-17-19) Penalty, see § 97.99

§ 97.02 DESIGNATION OF CITY PARKS.

(A) Except for those regulations which apply specifically to River Creek Park (§§ 97.15 et seq.) and those regulations which apply specifically to the Community Center (§§ 97.35 et seq.), the regulations in this subchapter apply to the following parks:

Friendship Community Park
Freeman Park
Hardin Park
Skelton Park
Burk Royalty Park
Burkburnett Youth Soccer Complex
Permian Park
Pocket Park

Boy's Youth Baseball Complex
Girl's Youth Softball Complex
Burkburnett Skate Park

(B) This list of city parks may be amended, from time to time, and these regulations shall be applicable to any city park added to this list effective on the date such new park is added to the list. (Ord. 629, passed 3-4-02; Am. Ord. 656, passed 4-21-03)

§ 97.03 REGULATION OF ALCOHOL AND CONTROLLED SUBSTANCES.

(A) The possession or consumption of alcoholic beverages, toxic drugs, narcotic drugs or any substance which is classified as a "controlled substance" under state or federal law is prohibited in all city parks and in all public street rights-of-way abutting such parks and at the Community Center except as follows:

(1) A person may possess or use prescription drugs which have been prescribed for that individual by a physician licensed to prescribe the particular drug or drugs being used, so long as such drug or drugs are only being used by the person for whom they have been prescribed and are being used in strict compliance with the instructions of the physician prescribing them; and

(2) A person or persons may possess or consume beer and/or wine if a permit has been obtained from the city in the manner set forth in division (B) of this section and if the person or persons possessing or consuming the beer and/or wine are doing so in strict compliance with the terms of the permit and any other applicable law.

(B) An event coordinator desiring to have beer or wine available for consumption for a special event in a city park or the Community Center may make application to the City Manager or his or her designee for a permit to do so. The "event coordinator" is the person making the application and who will be responsible for compliance with this chapter. In addition to the information required for other permits provided by this chapter, the city staff may request such additional information as may be reasonably required so that they can evaluate the application to ensure that the consumption of beer and wine will not: violate any applicable law or regulation applicable to the use of the park or the Community Center or create a nuisance to adjoining areas. An application shall not be approved if it is determined that any persons involved in the function have been convicted of any felonies, Class A or Class B misdemeanors or any offense in violation of the Texas Alcoholic Beverage Code or any similar law regulating the use, consumption or possession of alcoholic beverages. The city may require the applicant and any other person involved in the proposed event to consent to a criminal history check as a condition for the issuance of a permit. The city may specify terms and conditions to the issuance of a permit which are in addition to the terms and conditions otherwise provided by this chapter (including additional insurance coverage) to accomplish the purposes of this division.

(1) The city may charge an application fee for each application submitted pursuant to this division (B). The amount of said

application fee shall be established, from time to time, by resolution of the Board of Commissioners based upon the recommendation of the City Manager. In addition, the city may charge, in advance, upon filing of an application, an amount equal to its estimated cost which will be payable to third parties in processing an application, such as the cost of a criminal history check.

(2) The application for a permit for a public event shall be submitted to the Board of Commissioners for a determination as to whether the permit should be issued and as to what terms and conditions should be required for the issuance of the permit.

(3) The application for a permit for a private event shall be submitted to the City Manager for a determination as to whether the permit should be issued and as to what terms and conditions should be required for the issuance of a permit.

(4) For purposes of this division (B), a "public event" includes any of the following:

(a) Any event which is advertised as being open to the public;

(b) Any event which is not restricted to a definable group of people so that the event coordinator is unable to estimate the maximum number of persons who will be permitted to participate in the event; or

(c) Any event for which a fee or any type of consideration is required for admission by participants. For purposes of this division (B), a "private event" is any event which is not a public event.
(Ord. 339, passed 10-18-76; Am. Ord. 629, passed 3-4-02; Am. Ord. 728, passed 11-20-06) Penalty, see § 97.99

§ 97.04 SPONSORSHIP AND NAMING RIGHTS.

No person, firm or organization may sponsor a city park or purchase or install equipment or improvements in a city park without approval of the city. Likewise, no city park or any equipment or improvements in a city park will be named after any person, firm or organization without approval of the city. Any person, firm or organization seeking approval under this section shall make application to the city manager who will then make a recommendation to the Board of Commissioners of the city for final action.
(Ord. 629, passed 3-4-02)

§ 97.05 CERTAIN ACTS PROHIBITED.

(A) It shall be unlawful for any person, firm, or corporation using a city park to do any of the following acts or to permit any child or person under disability that is under their care, custody or control to do any of the following acts:

(1) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any trees or growing plants, building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities, parts, or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(2) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of such water.

(3) Bring in, dump, or deposit: (i) garbage created from activities which take place outside of a park (such as household garbage or commercial garbage) at any location within a city park or a garbage receptacle located in the park, (ii) garbage created from activities which take place inside a particular park in any location within that park other than a garbage receptacle located in that park or if garbage receptacles are not provided or if they are full, such garbage shall be carried away from the park by the person responsible for its presence in the park, and properly disposed of elsewhere. For purposes of this section, a person who obtains any permit for the use of a park or any facilities within a park is the person responsible for compliance with this section. As used in this subsection, the term "garbage" shall have its usual meaning and shall include, without limitation, any bottles, glass containers, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse, or other trash. No garbage shall be placed in any waters in or contiguous to any park.

(4) Disturb the peace, loiter, or use any profane, obscene, blasphemous language, or to be guilty of disorderly, lewd or lascivious conduct of any kind in any park.

(5) Endanger the safety of any person by any conduct or act.

(6) Commit any assault, battery, or engage fighting.

(7) Violate any rule for the use of the park, made or approved by the Board of Commissioners.

(8) Prevent any person from using any park or any of its facilities, or interfere with such use in compliance with this chapter and the rules applicable to such use.

(9) Failure to yield the right-of-way to any pedestrian by any person who is riding a bicycle, roller skates, roller blades, scooter or skateboard on a park trail, sidewalk or parking lot in any park.

(10) Placement or erection of any structure, sign, bulletin board, post, pole or advertising device of any kind whatever in any

park, or attaching any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, fence, railing, post or structure therein without approval from the City Manager.

(11) Use of playground equipment or playground areas designated for children of a particular age by persons who are not in the designated age group.

(12) Parking a motor vehicle: (i) upon any park road, trail or sidewalk, (ii) in any area where signs are posted by the city prohibit parking and (iii) along any roadway within or adjacent to a park unless signs are posted by the city permitting parking in such areas. Parking lots are available for the public at baseball and softball complexes.

(13) Driving any motorized vehicle over or through any park or park trail or sidewalk except any city maintenance vehicle or private vehicles needed for special events which have been approved by the City Manager.

(14) Plying the vocation of a solicitor, agent, peddler, fakir, mendicant, beggar, strolling musician, organ grinder, exhorter or showman in any park without City Manager approval.

(15) Selling or offering for sale any goods or wares or staging musical events without permission from or by contract with the City Manager.

(16) Walking, skating, standing or sitting on any border, flowerbed, monument, vase, fountain, railing, or fence in any park.

(17) Practicing golf in any park not designated for that purpose.

(B) All references in this section to "park" shall refer to the city parks designated in § 97.02 of this Code.

(C) The following are the rules and regulations for the Burkburnett Skate Park:

(1) Users of this facility assume all risk of personal injury or damage to personal property.

(2) No children under five years of age are allowed in the park.

(3) A safety helmet must be worn at all times when using the skate park, “NO HELMET, NO SKATE.” Kneepads, elbow pads, wrist pads and shirts are highly recommended.

(4) No food, drinks, smoking, reckless, or improper behavior allowed in the skate park facility.

(5) The skate park and its ramps/rails are for use of skateboards and inline skates only.

(6) No personal ramps or rails are allowed.

(7) Alcoholic beverages are prohibited in the skate park.

(8) No pets allowed within skate park facility.

(9) Skating on bleachers is prohibited.

(10) No loitering allowed inside the skate park.
(Ord. 629, passed 3-4-02; Am. Ord. 656, passed 4-21-03) Penalty, see § 97.99

§ 97.06 ANIMALS IN CITY PARKS.

It shall be unlawful for any person to bring any dangerous animal into any city park; and it shall be unlawful to permit any dog to be in any city park unless such dog is on a leash not more than 12 feet long. Owners shall be responsible for cleanup and proper disposal of animal waste.
(Ord. 629, passed 3-4-02) Penalty, see § 97.99

§ 97.07 TETHERING OR PASTURING ANIMALS.

It shall be unlawful for any person to tether or pasture any cow, horse, mule or domestic animal in or upon any park.
(Ord. 629, passed 3-4-02) Penalty, see § 97.99

§ 97.08 HORSE BACK RIDING.

It shall be unlawful for any person to ride a horse on or across any park, park trail or sidewalk except for special events (such as pony rides, parades, etc.) with prior City Manager approval.
(Ord. 629, passed 3-4-02) Penalty, see § 97.99

§ 97.09 FRIENDSHIP COMMUNITY PARK POND.

(A) The pond at Friendship Community Park is intended for aesthetic use only; swimming or wading is prohibited. Any special activities that include use of the pond shall be authorized through the City Manager.

(B) Fishing will be allowed in the Friendship Community Park Pond under the supervision of the Texas Parks and Wildlife Department. All fishing regulations as set forth by the Texas Parks and Wildlife Department will be observed.
(Ord. 629, passed 3-4-02; Am. Ord. 650, passed 11-18-02; Am. Ord. 743, passed 10-15-07; Am. Ord. 868, passed 1-19-15) Penalty, see § 97.99

§ 97.10 SOFTBALL AND BASEBALL COMPLEXES.

Softball and baseball complexes are primarily intended for games and practices associated with organized leagues. Public use by individuals and organizations other than those which are a part of an organized league shall be permitted, however, an organized league game or practice will take priority for the use of these fields. Lights for these complexes are used for organized team practices and games and will not be used for individual practice purposes.
(Ord. 629, passed 3-4-02) Penalty, see § 97.99

§ 97.11 PARK PAVILIONS.

(A) Park pavilions are intended for public use. However special interest groups, families, and clubs or organizations may reserve the pavilions for special daily events or activities. Reservations for the pavilions may be made at City Hall in accordance with rules and procedures established by the city. On days when these pavilions are reserved they will be closed to the general public.

(B) Permission to use the park pavilions will be denied to any group whose purpose is illegal, whose conduct would generally be unsuitable for the surroundings due to noise or other factors, or for which satisfactory sponsorship is not provided.

(C) Reservations for use of the park pavilions can be made through the offices of the City Hall, 501 Sheppard Road and will be filled on a first come basis and should be made at least one week in advance. Reservations must be made in person and by a responsible representative of the individual, group or organizations requesting use of the park pavilions. Reservations require signing of rental agreement and a refundable deposit for the use of the park pavilions.

(D) To insure the longest possible use of the pavilions, reservations may not be made for more than two consecutive calendars years. After January 1 of each year, reservations will be accepted on a first come, first serve basis for any open dates.

(E) In accepting use of the park pavilions, the responsible person and/or organization making the reservations will be held responsible for proper conduct of those attending and for expenses caused from any damage. The city assumes no responsibility for any of the users property that may be damaged or lost. Users are responsible to turn out lights, empty trash and remove all their materials upon completion of their use.

(F) All pavilions require a $25 deposit. Rental fees are as follows:

Rental Fees

	½ Day	All Day
Royalty Pavilion	$15.00	$ 25.00
Basketball Pavilion	$50.00	$100.00
Friendship Pavilion	$25.00	$ 50.00
Rotary Pavilion	$25.00	$ 50.00

(G) Renters needing chairs and tables in excess of the numbers present at the pavilion are required to rent additional seating and/or tables at their own expense. Sound equipment, lighting, trash removal, and any other equipment or services deemed necessary for the event for which the facility is rented are the sole responsibility of the renters, unless otherwise agreed in writing in the rental agreement. (Ord. 629, passed 3-4-02) Penalty, see § 97.99

§ 97.12 USE OF FRIENDSHIP COMMUNITY PARK AMPHITHEATER.

The following rules and regulations apply to the use of Friendship Community Park Amphitheater:

(A) Use, Admission Fees, Household Pets Prohibited. Friendship Community Park Amphitheater may be used by clubs, organizations, and other group activities. During these scheduled events at the amphitheater, admission fees may be charged to individuals attending these activities. Household pets will not be allowed on the premises during these activities, concerts or events.

(B) Reservations. Reservations for use of the amphitheater can be made through City Hall, 501 Sheppard Road and will be filled on a first come basis. Reservations shall be made at least seven business

days in advance and no more than 120 days in advance of the event. Reservations must be made in person and by a responsible representative of the individual, group or organizations requesting use of the amphitheater. Reservations require signing of rental agreement and a refundable deposit for the use of the amphitheater.

(C) Rental Agreement. A written rental agreement contract will be required. Policy rules and regulations will be stated on the rental agreement. All groups using the Amphitheater shall comply with all laws whether they are federal, state or local to include all ordinances of the city and all rules, regulations and requirements of the Police and Fire Departments. Fire lanes must remain clear at all times. A violation of any law or ordinance by any renter or guest of any Renter will subject renter to an immediate cancellation of the rental contract, forfeiture of rental deposit or discontinuation of the event in progress, in addition to any other applicable civil or criminal penalty.

(D) Prohibited uses. The following uses are prohibited:

(1) Conducting of private school, including but not limited to dance classes, aerobics, exercise classes, union activities, and cosmetic training sessions.

(2) Use of the amphitheater for religious functions is limited to special services only with approval of the City Manager.

(3) The use on any portion by any individual, firm or corporation for the purpose of selling merchandise, except the selling of merchandise by displaying, exhibiting or presenting of the merchandise under the sponsorship of a civic organization, antique club, or other charitable organization.

(4) Attaching decorations to walls, ceiling or cabinets.

(5) Consumption or possession of alcoholic beverages.

(6) Use of roller blades, skates or skate boards on amphitheater walkways and stage.

(7) Use of glass containers.

(E) Deposit. A refundable deposit shall be required in connection with each application to use the amphitheater as follows:

Non-profit groups or individuals: $250.00

Profit groups or individuals: $500.00

A reservation shall be confirmed by a deposit fee or it will be canceled. The deposit for the reservation must be made at the time of reservation. Forfeiture of the deposit fee shall occur:

(1) When cancellation of the reservations is not made prior to 72 hours to the reservations.

(2) If the keys to the facilities are not returned to City Hall within the allotted time.

(3) When the facilities are not left in as good a condition as upon arrival. Each tenant using the amphitheater shall be responsible for setting up and taking down all tables and chairs, cleanup and litter disposal.

(4) All utilities including lights, water, etc., must be turned off before leaving the amphitheater. In determining if the facilities are left in an unacceptable condition shall be at the sole discretion of the city staff.

(F) Insurance Requirements. Groups or individuals for profit are required to procure and maintain, at its sole cost and expense for the duration of this Facility Rental Agreement, Comprehensive General Liability insurance in the name of the renter, for limits of not less than $500,000 for personal injury or death arising out of any one occurrence and property damage insurance in an amount of not less than $500,000 for damage to property arising out of any one occurrence. This insurance policy must cover, in addition to the general public, all employees of the city working at the facility, all entertainers and their support staff and any other individual participating in or attending the event for which the facility is rented. The general liability insurance shall be written by a carrier licensed and admitted to do business in the State of Texas. Unless waived by the City Manager, the renter shall procure an endorsement to such policy naming the city as an additional insured during the term of the rental agreement. Renter must furnish proof of all required coverage through a certificate of insurance or other proof acceptable to the City Manger, prior to the event.

(G) Rental fees. Rental of the facilities includes entire premises. Outside patrons may not use the amphitheater when rented. Rental fees shall be paid prior to receiving keys to the facility. Rental fees shall be as follows:

Non-profit groups or individuals:

$100.00 the first 2 hours and $ 20.00 each hour there after. 2-hour minimum required.

Profit groups or individuals:
$250.00 the first 2 hours and $50.00 each hour there after. 2-hour minimum required.

(H) Hours of use. The hours in which the amphitheater can be used are from 6:00 a.m. until 12:00 midnight every calendar day of the year. All activities must end at 12:00 midnight.

(I) Tenants to indemnify city. All tenants of the amphitheater shall indemnify the city and hold the city harmless from: (i) Any and

all liabilities for any claim or claims resulting from their rental or use of the premises including all claims based upon the intentional conduct or negligence of the tenant's officers, agents, employees or invitees and (ii) all expenses incurred by the city in defending against any such claim or claims, including attorneys fees, court costs and expert fees. All rental contracts shall specifically include such provisions.

(J) Sanction. Any group or organization that has been found to be in flagrant violation of this policy shall be prohibited from the use of the facility for a period of time as determined by the City Manager.

(K) Additional chairs, tables; equipment. Renters needing chairs and tables in excess of the numbers present at the amphitheater are required to rent additional seating and/or tables at their own expense. Sound equipment, lighting, trash removal, and any other equipment or services deemed necessary for the event for which the facility is rented are the sole responsibility of the Renters, unless otherwise agreed in writing in the rental agreement.
(Ord. 629, passed 3-4-02) Penalty, see § 97.99

§ 97.13 APPLICATIONS AND RENTAL AGREEMENTS.

The City Manager is authorized and directed to prepare appropriate rental applications, rental agreements and other documents or contracts which are consistent with the rules stated in this chapter and is authorized to execute such agreements on behalf of the city.
(Ord. 629, passed 3-4-02)

§ 97.14 UNLAWFUL USE.

It shall be unlawful for any person to use or occupy any city park in a manner inconsistent with the rules and regulations specified in this chapter or for any person to fail to comply with the rules and regulations specified in this chapter. Any person convicted of a violation of this section shall be punished by a fine in accordance with current City Code of Ordinances.
(Ord. 629, passed 3-4-02) Penalty, see § 97.99

RIVER CREEK PARK

§ 97.15 USE OF GROUNDS AND FACILITIES.

Each person, firm, or corporation, using the public parks and grounds shall clean up all debris, extinguish all fires when such fires are permitted and leave the premises in good order, and the facilities in a neat and sanitary condition.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.16 PICNIC AREAS AND USE.

(A) No person in a park shall picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.

(1) Tables shall not be moved and open fires are not to be built without first securing permission from the park ranger.

(2) Motorcycles and horses will be permitted only in designated areas.

(B) No person in a park shall use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.17 HOURS OF OPERATION; OVERNIGHT CAMPING.

(A) River Creek Park shall be opened daily to the public during the hours of 9:00 a.m. to 10:00 p.m. of any one day.

(B) Any section, or part of the park, may be declared closed to the public by the park ranger at any time and for any interval of time, either temporarily or at regular or stated intervals.

(C) Overnight camping will not be permitted; and it shall be unlawful for any person, or persons (other than city personnel conducting city business therein), to occupy or be present in the park during any hours in which the park is not open to the public.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.18 GROUP ACTIVITIES; PERMIT REQUIRED.

(A) Whenever any group, association, or organization desires to use the park facilities for a particular purpose, such as, picnics, parties, or theatrical or entertainment performances, a representative of the group, association, or organization shall first obtain a permit from the park ranger for such purposes. The Board of Commissioners may adopt an application form to be used by the park ranger for such situations.

(B) The park ranger shall grant the application if it appears that the group, association, or organization will not interfere with the general use of the park by the individual members of the public and if the group, association, or organization meets all other conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the city from any liability of any kind or character and to protect city property from damage.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.19 SPECIAL ACTIVITIES.

(A) It shall be unlawful to engage in special activities including flying model airplanes, golf practice, games, and picnics except at locations specifically designated for such activities by the park ranger. Areas for such activities may be reserved by groups for use at specified times.

(B) The golf course is off limits to park visitors and trespassing is prohibited.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.20 DRIVING OR PARKING VEHICLES IN PARK.

It shall be unlawful to drive or park any automobile except on a street, driveway, or parking lot in any park; or to park or leave any such vehicle in any place other than one established for public parking.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.21 CERTAIN ACTS PROHIBITED.

It shall be unlawful for any person, firm, or corporation using such parks to either perform or permit to be performed any of the following acts:

(A) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any trees or growing plants, building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities, parts, or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

(B) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of those waters.

(C) Bring in or dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(D) Disturb the peace, or use any profane, obscene, or blasphemous language.

(E) Endanger the safety of any person by any conduct or act.

(F) Commit any assault, batter, or engage in fighting.

(G) Violate any rule for the use of the park, made or approved by the Board of Commissioners.

(H) Prevent any person from using any park or any of its facilities, or interfere with such use in compliance with this subchapter and the rules applicable to such use.

(I) Appear in bathing costume at any place in the parks except within the limits of designated bathing places or areas, and all bathing costumes shall conform to commonly accepted standards.

(J) Dress or undress on any beach, or in any vehicle, toilet, or other place, except in such bathing houses or structures as may be provided for that purpose.

(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.22 ANIMALS.

It shall be unlawful to bring any dangerous animal into any park; and it shall be unlawful to permit any dog to be in any park unless such dog is on a leash not more than six feet long.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.23 SELLING OR PEDDLING IN PARK.

It shall be unlawful for any person other than employees and officials of this park district acting on behalf of this district, to vend, sell, peddle, or offer for sale any commodity or article within any park.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.24 SIGNS.

It shall be unlawful for anyone to paste, glue, tack, or otherwise post any sign, placard, advertisement, or inscription whatever; nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.
(Ord. 367, passed 7-16-79) Penalty, see § 97.99

§ 97.25 EXCEPTION.

The provisions of this subchapter shall not apply to any properly authorized government official in pursuit of any official duty.
(Ord. 367, passed 7-16-79)

§ 97.26 ENFORCEMENT OF REGULATIONS.

The park ranger shall enforce the provisions of this subchapter and any other ordinance relating to the use of this park.
(Ord. 367, passed 7-16-79)

COMMUNITY CENTER

§ 97.35 DEFINITION.

For the purpose of this subchapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

"COMMUNITY CENTER." The Burkburnett Community Center and the entire premises thereof, including the auditorium, multi-purpose building, and all other parts or portions thereof.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.36 HOURS OF OPERATION.

The hours of operation for the community center shall be Monday through Sunday 6:00 a.m. until 12:00 midnight.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.37 CONTRACTS; RESERVATIONS; FEE.

(A) A written rental agreement contract will be required by the city.

(B) Reservations may be made by phone or in person.

(C) Friday, Saturday, and Sunday bookings of the community center shall not be made longer than four weeks in succession.

(D) Use of the community center by private schools for conducting school will be prohibited.

(E) The booking of religious functions shall apply to functions of the recreational, extracurricular type, excluding religious services, at which the purpose is the propagation of religious teachings or doctrines.

(F) Reservations may be made for dances and music concerts. The reservation fee for dances shall include a minimum of $30 for a uniformed policeman per 100 participants if deemed necessary by the City Manager; $60 for 200 participants, etc. Any group having between 50 and 100 minors involved would pay for one policeman. This $30 is the rate for the first three hours for the policeman's time. Each additional hour would cost $10 per policeman. Police officers will be provided by the City Manager. This shall be applicable to music concerts.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93; Am. Ord. 673, passed 4-19-04)

§ 97.38 BOOKING RATES FOR AUDITORIUM OR MEETING ROOM.

(A) Auditorium:

	Rate
Base category	$150.00 ½ day* 250.00 all day*
Local service clubs (Local service clubs booked on a regular basis), local non-profit service clubs, non-profit fund raising; i.e. Chamber of Commerce, Rotary Club, Lions Club)	20.00 per hour

* ½ day = 5 hours or less; all day = 6 hours or more.

(B) Small meeting room.

	Rate
Base category	$100.00 ½ day* 150.00 all day*
Local service clubs (Local service clubs booked on a regular basis), local non-profit service clubs, non-profit fund raising; i.e. Chamber of Commerce, Rotary Club, Lions Club)	10.00 per hour

* ½ day = 5 hours or less; all day = 6 hours or more.

(C) Kitchen.

	Rate
Base category	$50.00 ½ day* 75.00 all day*

* ½ day = 5 hours or less; all day = 6 hours or more.

(Ord. 387, passed 11-16-81; Am. Ord. 401, passed 1-17-83; Am. Ord. 402, passed 2-9-83; Am. Ord. 520, passed 12-20-93; Am. Ord. 703, passed 9-12-05)

§ 97.39 PAYMENT FOR USE OF CENTER.

Rental payment for use of the community center shall be due and payable to the city. Rental payment of the center must be paid in person by 5:00 p.m. of the previous day of the reservation.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.40 ESTABLISHMENT OF INSURANCE REQUIREMENTS.

The City Commission shall establish all insurance requirements pertaining to the use of the community center and its premises.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.41 TENANTS TO INDEMNIFY CITY.

All tenants of the community center shall hold the city harmless from any and all liabilities for any claim or claims resulting from their rental or use of the premises and shall indemnify the city in case of any claims resulting from their operations or occurring during their occupation of the premises, and all rental contracts shall specifically include such provisions.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.42 LIABILITY FOR DAMAGES.

Any person, firm, or corporation renting the community center shall be held liable for any damages to the center or any of its facilities. Damages to the facilities will not be tolerated, such as interior, exterior, furniture, fixtures, and the like (a renter will pay for damages if it exceeds deposit). Deliberate destruction will result in charges being filed and a permanent ban from use of the facility.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.43 REFUSAL TO RENT FACILITIES.

(A) Acting through its agent, the City Manager, the city hereby reserves the right to refuse to rent the facilities of the community center to any individual or group not acting in the best interest of the public or the city.

(B) The City Manager has full authority to refuse center privileges to any person, group, or organization who, in his opinion, will, or has nonpayment of previous rental time or otherwise violated the center rules and purposes.

(C) No individual, group, or organization will be allowed to use or make reservations in the community center, if that individual's, group's, or organization's name appears on the Attorney General's subversive list as published by the federal government.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.44 FREE USE PROHIBITED.

The minimum cost of operating fee for any and all events or attractions shall be determined and collected for use of the community center and premises. No free use thereof shall be permitted, extended, or granted to any individual, organization, or group except a governmental election.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.45 SPECIAL SERVICE AND EQUIPMENT.

All expenses for special services, equipment, and conveniences shall be charged to and paid by the tenant as part of the rental, in addition to other charges provided for in this subchapter.

(A) Police, guards, and the like. In any case where the services of police, guards, or watchmen are needed or desired incidental to the handling of a large crowd or for the protection of property, equipment, or people as in the opinion of the City Manager, are required to protect life and property, they shall be paid by the organization renting the community center and will be employed by and subject to the supervision of the City Manager. The number to be hired shall be left to the discretion of the City Manager.

(B) Each organization using the community center shall be responsible for setting up and taking down of all tables and chairs in the meeting room or auditorium.

(C) Each organization using the community center shall be responsible for setting up and taking down of all tables and chairs in the meeting room or auditorium.

(D) Decorations may be applied with tape only. All decorations and tape must be taken down by the renter.

(E) No tape shall be applied to the floors.

(F) The city will assist in the removal of snow from the parking lot of the community center only if personnel and money are available. (Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.46 BROADCASTING OR TELEVISING PERFORMANCES, LECTURES, AND THE LIKE.

No renter of community center facilities shall broadcast or televise any performance, lecture, concert, or public or private meeting by radio or television without written consent of the city. The lessee shall furnish and install all equipment necessary for the broadcast and for the control booth other than that furnished by the city.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93) Penalty, see § 97.99

§ 97.47 SALE OF MERCHANDISE.

The use of any portion of the community center by any individual, firm, or corporation for the purpose of selling merchandise is hereby prohibited, except the selling of merchandise by display, exhibit, or presence of the merchandise under the sponsorship of a civic organization, antique club, art club, or charitable organization.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93) Penalty, see § 97.99

§ 97.48 RULES OF CONDUCT.

(A) There shall be no alcohol on the premises except as permitted by § 97.03.

(B) No one who is intoxicated (as that term is defined in the Texas Penal Code)will be admitted.

(C) Abusive language will not be tolerated.

(D) Anyone found abusing any part of the center or its equipment will be ejected immediately.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93; Am. Ord. 728, passed 11-20-06) Penalty, see § 97.99

§ 97.49 ADMINISTRATOR IN CHARGE OF CENTER.

The administrator in charge of the community center shall be the City Manager or other authorized personnel, subject to approval of the City Commission, and the terms, conditions, and duties of their employment shall be prescribed by the City Manager, subject to the approval of the City Commission.
(Ord. 387, passed 11-16-81; Am. Ord. 520, passed 12-20-93)

§ 97.50 COMMUNITY SIGN AND USE POLICY.

(A) Scope.

(1) Background. The city owns and operates a community sign. The sign is located at 735 Davey Drive. The sign is a computerized LED electronic message center.

(2) Purpose. The purpose of the community sign is to promote city and community organization events.

(B) Criteria/procedure.

(1) Eligible users. Not-for-profit, government organizations and customers who have reserved the Community Center, are eligible users of the community sign. Examples of not-for-profit and government organizations include but are not limited to: youth organizations, Lion Clubs, Rotary Clubs, religious institutions, government institutions, educational institutions, senior citizen clubs, and the like. For-profit organizations may use the community sign when hosting a non-profit community event with city approval from the City Manager. The community sign shall not be used for commercial advertising, nor to advertise or promote political candidates, political parties, or political issues.

(2) Application.

(a) Community sign use applications shall be submitted to the City Clerk at least 14 calendar days prior to the proposed start date of a message. Community sign use applications must be in writing, and must include the following:

1. Name of event to be promoted;

2. Name of sponsoring organization;

3. Contact person’s information, including complete address and daytime telephone number;

4. Date(s) of event; and

5. Time period requested for community sign use.

(b) Community sign use applications will be accepted and documented on a first-come-first-serve basis, based on receipt of completed applications. Incomplete applications will be denied. In the event that too many message requests are received for a particular date, the city reserves the right to adjust display dates or decide what messages will be displayed, in an attempt to honor all requests. The city will make a good faith effort to play messages in the order in which they were received.

(c) All messages must be of broad community interest. Applications for messages that contain, but are not limited to the following, will be denied: political campaign messages, for-profit advertising, religious messages, messages pertaining to illegal activities, and any message containing profanity or offensive language.

(d) The city shall also honor traditional events, which are held annually, by reserving the community sign for those purposes.

(3) Message. All messages should be as short as possible, with a maximum of 100 characters. Messages may not contain graphics. The message must be supplied by the applicant. The city will not create graphics. All messages are subject to change by the city, and the city is not responsible for errors.

(4) Duration. Messages for not-for-profit and government organizations shall be played no more than 14 days in advance of an event, with a 14-day maximum duration. Messages for customers who have reserved the Community Center may be posted for a maximum of 3 days prior to the event. The length of time a message is displayed and number of times a message is displayed in a given day is at the discretion of the city.

(5) Annual use. Organizations are limited to a maximum of ten messages per year.

(6) Message priority. The city reserves the right to prioritize the order of all messages played on the community sign. Messages from the city, along with any emergency notices, take precedence over community messages.

(7) Charge. A fee of $10 per booking will be charged in advance by the city.

(8) Approval. Messages will be reviewed and approved by the City Manager or his/her designee.
(Ord. 472, passed 8-13-90; Am. Ord. 476, passed 10-15-90; Am. Ord. 520, passed 12-20-93; Am. Ord. 858, passed 8-18-14)

§ 97.51 DEPOSIT RULES.

(A) A deposit fee of $200 is required for the reservation.

(B) The deposit for the reservation must be made no later than one week after the request for a reservation has been made.

(C) Any reservation not confirmed by the $200 deposit within a one week period will automatically be cancelled.

(D) Deposit will be forfeited if facilities are not left in as good condition as when rented.

(E) Deposit fee will be forfeited if cancellation notice is not given 72 hours prior to the reserved time, with the exception of a sickness or death in the family.

(F) Deposit will be returned to the renter upon verification by staff that facilities are left in good condition and keys have been returned.
(Ord. 520, passed 12-20-93; Am. Ord. 703, passed 9-12-05)

PARKS AND RECREATION BOARD

§ 97.60 PURPOSE.

It is the purpose of this subchapter to provide a City Parks and Recreation Board to be located in the city.
(Ord. 800, passed 2-21-11)

§ 97.61 ESTABLISHMENT.

A City Parks and Recreation Board is hereby established and created.
(Ord. 800, passed 2-21-11)

§ 97.62 APPOINTMENT OF MEMBERS.

The City Parks and Recreation Board shall consist of seven members. The City Manager or his or her designated representative shall be an ex officio member. The ex-officio members shall have no voting privileges and obligations as do the seven regular members.

(A) The members of the City Parks and Recreation Board shall be appointed by the Board of Commissioners and the members of the Park and Recreation Board shall be resident citizens of the corporate limits of the city. The term of office of said members shall be two years; provided, however, at the first meeting following adoption of the ordinance from which this article is derived, three members of the park and recreation board shall draw by lot to determine which three members shall serve two-year terms; four members shall draw by lot to determine which four shall serve one-year terms; thereafter, all appointments will be made at the expiration of said terms, by the Board of Commissioners for a period of two years and until their successors in office are appointed. The Parks and Recreation Board shall elect a Chairperson, vice-chairperson, and secretary from among its members, who shall serve for a period of one year or until his or her successor is elected.

(B) Upon the death, resignation, removal or expiration of the term of office of any member of the Board, the Board of Commissioners shall appoint a successor as a member of the board, who shall hold his or her membership for the unexpired term of the member he or she is appointed to succeed, or for a period of two years when the appointment is made due to the expiration of a term of office.
(Ord. 800, passed 2-21-11)

§ 97.63 COORDINATION WITH CITY STAFF.

The City Parks and Recreation Board shall receive reports, advice and available services from the various city departments as directed by the City Manager, or his or her designated representative. When directed by the City Manager, any department head or official of the city shall be available to the Board for advice and consultation, and they shall cooperate with and render such services for the board as shall come within the scope of the duties of the City Manager.
(Ord. 800, passed 2-21-11)

§ 97.64 POWERS AND DUTIES.

The City Parks and Recreation Board shall have the power and authority and it shall be its duties:

(A) To make studies and project plans for the improvements and acquisition of the public park and open spaces with a view of its development and extension, and to recommend all matters for the development and advancement of the city park and open space facilities, layouts and appearance to perform the duties of advance planning for future acquisition and development of potential park and open space lands.

(B) To study and recommend plans of the development of parks and open spaces in any portion of the city, and any other land outside the city which in the opinion of the City Parks and Recreation Board bears a relation to the planning of the park and recreation program of the city and to recommend such changes in additions and extensions of plans or maps within the city as it deems advisable.

(C) To aid and assist the city manager in the procuring of financial and other aids and assistance for the city from the state and federal governments and their agencies for each and all of the purposes herein enumerated.

(D) To act with and assist all other municipal boards, governmental agencies, regional associations and especially the Board of Commissioners in formulating proper plans for municipal park and open space development.

(E) To plan and recommend the location, plan and extent of city parks, playgrounds, and other public grounds, and public improvements, for the location and planning of public buildings, schools and other properties, and of recreational facilities, including those public and privately owned improvements for water, lights, sanitation, sewer disposal, drainage, flood control and transportation, and for the removal, relocation, widening, extension, narrowing, vacation, abandonment or change of use of any of the foregoing public places, works, buildings, facilities or utilities as they may relate to parks and open spaces either now or contemplated for the future.

(F) To recommend general rules and regulations governing the use of parks, open spaces, community, recreational facilities and buildings.

(G) To recommend plans for improving, developing, expanding and beautifying the parks and to cooperate with the Board of Commissioners and other agencies of the city in advising, establishing, locating, improving, selecting, expanding and maintaining the public parks and playgrounds for public recreation.

(H) To aid and assist the Board of Commissioners by recommending plans for the development of civic or community centers.

(I) To recommend programs to the Board of Commissioners, in an advisory capacity, to originate, plan and coordinate a recreation program for all segments of the population, throughout all seasons of the year. Efforts by the board should be made to ensure that all recommendations will utilize existing facilities and organizations to provide recreational and leisure-time activities to the citizens. The board should consider possibilities of gaining cooperative use of non-city-owned facilities and implementing proven programs to attract participants for recreational activities.
(Ord. 800, passed 2-21-11)

§ 97.65 RULES.

(A) Said park and recreation board shall make such rules and regulations for its own government and designate such time and place for holding regular meetings as it deems proper. Four members of the City Parks and Recreation Board shall constitute a quorum for transaction of business.

(B) Should any member of the park and recreation board be absent for four meetings during one 12-month period, it shall be the responsibility of the chairperson, or in his absence, the Secretary of the City Parks and Recreation Board to notify the Board of Commissioners, through the city manager, with a record of said absences and of any and all extenuating circumstances related to the absences.

(C) The City Parks and Recreation Board shall have the authority to consider and make recommendations to the Board of Commissioners in writing from time to time on any and all matters pertaining to the city's public parks and recreation system.

(D) All recommendations made by the Board to the Board of Commissioners shall by the majority vote of the Board, and such recommendations shall normally be made through the City Manager.

(E) The City Manager shall confer with the City Park and Recreation Board during the preparation of his or her annual park department budget recommendation to the Board of Commissioners. The City Manager shall be required to inform the Board of Commissioners of the Board's recommendations concerning annual park and recreation appropriations, and in those instances where his recommendation differs from that of a majority of the Board, the board chairperson may have a hearing before the Board of Commissioners to directly report the majority's recommendation including the source of funds to support such recommendation.

(F) The City Parks and Recreation Board shall have no authority in the choice of employees who may be assigned to park and recreation activities nor in the establishment of salary ranges for such employees. The board may offer advice to the City Manager as to persons who may be available for employment and may advise the City Manager and Board of Commissioners as to needs in the area of park and recreation that might be met by additional employees.

(G) All revenues derived from park and recreation related activities which are under the direct control of the city shall be deposited to the city general fund and utilized as determined by the Board of Commissioners during the annual budgeting of funds for all city departments.
(Ord. 800, passed 2-21-11)

§ 97.66 ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS.

The Parks and Recreation Board may accept gifts, grants, and donations of money, personal property, and real property for use in expanding and improving the park facilities and services available to the people of this city.
(Ord. 275, passed 1-3-66)

§ 97.67 OBTAINING GRANTS.

The Parks and Recreation Board may negotiate with any agency of the United States and the state in order to obtain grants to assist in the expansion and improvement of park services available to the people of the city.
(Ord. 275, passed 1-3-66)

§ 97.68 VACANCIES.

Vacancies on the Parks and Recreation Board may be filled by a majority vote of the remaining Board members for unexpired terms.
(Ord. 275, passed 1-3-66)

§ 97.69 RECORDS TO BE KEPT.

The Parks and Recreation Board shall keep a record of its proceedings and the record shall be open to inspection by the public.
(Ord. 275, passed 1-3-66)

§ 97.70 RESPONSIBILITY OF BOARD MEMBERS TO MAKE RECOMMENDATIONS.

The Parks and Recreation Board shall be responsible for making recommendations to the Board of Commissioners for the operation of city parks.
(Ord. 275, passed 1-3-66)

§ 97.71 RULES TO BE MADE FOR ADMINISTRATION OF PARK SERVICES.

The Parks and Recreation Board may make rules, consistent with the purposes, policies, principles, and standards provided by this subchapter to regulate the administration of park services in the city.
(Ord. 275, passed 1-3-66)

§ 97.99 PENALTY.

(A) Any person who is convicted of violating this chapter for which another penalty has not been provided shall be punished by a fine not exceeding $200.

(B) Any person, firm, or corporation who violates any of the provisions of §§ 97.15 through 97.26 shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum of not less than $5 and not more than $200 for each offense. Each day's continuance of a failure to comply therewith shall constitute a separate and distinct offense for each of those days.
(Ord. 367, passed 7-16-79)

CHAPTER 98: PUBLIC LIBRARY

Section

General Provisions

98.01 Purpose
98.02 Compensation and expenses
98.03 Detaining materials or property belonging to library; injuring or defacing library materials

Burkburnett Library Trustees

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GENERAL PROVISIONS

§ 98.01 PURPOSE.

It is the purpose of this chapter to provide a city public library to be located in the city.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.02 COMPENSATION AND EXPENSES.

The number of employees, the salaries, and the operating expenses of the library shall be as fixed in the city's budget each year.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.03 DETAINING MATERIALS OR PROPERTY BELONGING TO LIBRARY; INJURING OR DEFACING LIBRARY MATERIALS.

No person shall willfully detain any book, magazine, newspaper, pamphlet, manuscript, audio-visual material, or other property belonging to the public library, for a length of time exceeding 20 days from the due date of such material, by writing, marking, tearing, breaking, or otherwise mutilating such materials or property.
(Ord. 350, passed 12-19-77; Am. Ord. 541, passed 2-19-96) Penalty, see § 98.99

BURKBURNETT LIBRARY TRUSTEES

§ 98.15 ESTABLISHMENT.

The Board of the Burkburnett Library Trustees is hereby established and created.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.16 COMPOSITION; MEMBERS.

The Board of the Burkburnett Library Trustees shall consist of ten members. Ex officio members shall be the County Commissioner representing the city, the City Manager, and the Superintendent of Schools. Ex officio members shall be non-voting members. The remaining seven members shall be appointed by the City Commissioners. After the initial appointment, members shall be appointed by the City Commissioners from nominees submitted by the Burkburnett Library Trustees.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.17 TERMS.

Each member holds office for a term of two years and until his successor is appointed and qualified, except that the first seven members appointed shall be appointed for a term so as to provide for various terms, so that all memberships shall not terminate in the same year.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.18 ELECTION OF OFFICERS.

The Board of Library Trustees shall elect a Chairperson, vice-chairperson, secretary and treasurer from among its members, who shall serve for a period of one year or until his successor is elected.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.19 MEETINGS; QUORUM.

(A) The Board of Library Trustees shall hold at least nine regular meetings per year in the city, on dates fixed by rule of the Board of Library Trustees. The Board of Library Trustees shall make rules providing for the holding of special meetings.

(B) Four voting members of the Board shall constitute a quorum for the transaction of business.

(C) All meetings of the Board shall be open to the public.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.20 VACANCIES.

Vacancies on the Board of Library Trustees may be filled by a

majority vote of the remaining Trustees for unexpired terms.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.21 GIFTS, GRANTS, AND DONATIONS.

(A) The Board of Library Trustees may accept gifts, grants, and donations of money, personal property, and real property for use in expanding and improving the library facilities and services available to the people of this city.

(B) The Board may negotiate with any agency of the United States and the state in order to obtain grants to assist in the expansion and improvement of Library services available to the people of this city.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.22 RECORDS.

The Board of Library Trustees shall keep a record of its proceedings and the record shall be open to inspection by the public.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.23 LIBRARIAN AND ASSISTANT TO BE EMPLOYED.

The City Manager shall employ a librarian, and assistants as deemed advisable, when funds are made available to the Board for such purpose.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.24 ADMINISTRATION OF LIBRARY SERVICES.

(A) The Board of Library Trustees may make rules, consistent with the purposes, policies, principles, and standards provided by this chapter to regulate the administration of library services in the city.

(B) The Board shall be responsible for the operation of a city library.
(Ord. 271, passed 7-19-65; Am. Ord. 549, passed 3-17-97)

§ 98.99 PENALTY.

Whoever violates any provision of § 98.03 shall be fined not more than $200 for each offense. Each day a violation continues shall constitute a separate offense.
(Ord. 350, passed 12-19-77; Am. Ord. 541, passed 2-19-96)

CHAPTER 99: STREETS AND SIDEWALKS

Section

Construction and Improvements

99.01 Use of streets in placing material used in construction of building and other improvements
99.02 Cost of street improvement shall be assessed against property; notification; hearing
99.03 Procedure for paving streets; installing curbs, gutters, and drainage

Obstructions; Advertisements

99.15 Posting of signs and the like on public ways and places
99.16 Placement of obstructions prohibited
99.17 Traffic visibility; removal of obstructions on public or private property
99.18 Removal of signs; cost to city
99.19 Exceptions
99.20 Civil action

99.99 Penalty

CONSTRUCTION AND IMPROVEMENTS

§ 99.01 USE OF STREETS IN PLACING MATERIAL USED IN CONSTRUCTION OF BUILDING AND OTHER IMPROVEMENTS.

(A) It shall be unlawful for any person, firm, copartnership, corporation, joint stock association, or others to place building materials and supplies to be used in the construction of any building or improvement on the sidewalk or in the streets of the city, except as is provided in division (B) of this section.

(B) No materials or supplies shall be placed upon any of the sidewalks, but the same shall be kept open for passage at all times; and any necessary sheds or passageways for the protection of pedestrians shall be erected over all sidewalks, and all materials and supplies used in the erecting or construction of any building or improvement shall be placed in the street at a distance of not to exceed one-third of the width of the street from the sidewalk. (Ord. 47, passed 7-7-19) Penalty, see § 99.99

§ 99.02 COST OF STREET IMPROVEMENT SHALL BE ASSESSED AGAINST PROPERTY; NOTIFICATION; HEARING.

(A) (1) Whenever the Board of Commissioners shall determine to improve any street, avenue, alley, highway, public place, or square, or any portion thereof, within the corporate limits of the city, by excavating, filling, grading, raising, paving, or repaving same in a permanent manner, or by the construction or reconstruction of

sidewalks, curbs, and gutters to the extent and out of such materials as the Board of Commissioners may decide upon, and shall propose that part of the cost of such improvement shall be assessed against the property, and the owners of property abutting on said street, avenue, alley, highway, public square, or portion thereof so to be improved, in accordance with the provisions of applicable state law; and shall propose to assess against the owner of any railroad or street railroad occupying any such street, avenue, highway, public square, or portion thereof so to be improved, the cost of the improvement between and under the rails and tracks of that railroad or street railroad, and two feet on the outside thereof, as provided by that Chapter, then in all such cases, before a special assessment is actually levied, or finally determined upon, a full and fair hearing shall be given to the owners of property abutting on such street, avenue, alley, highway, public place, or square, or portion thereof, and to the owner or owners of any railroad or street railroad occupying any portion of the same, preceded by a reasonable notice thereof given to such owners, their agents, or attorneys.

(2) Such notice shall be by advertisement inserted at least three times in some newspaper published in the city, the first publication to be made at least ten days before the date of the hearing.

(B) In addition to the notice by publication as provided by division (A) of this section, the Board of Commissioners may, by resolution, provided also for the mailing to the owners a copy of such notice by registered letter deposited in the United States mail and directed to the owners, if known, or by the service upon such owners in person, or upon the president, general manager, or any agent of any such railroad or street railroad, in person, by any person over the age of 14 years, of a copy of the notice. However, the methods of notice provided by this section shall be merely cumulative of the service of notice by publication mentioned in division (A) of this section. The notice so to be served shall state the time and place of the hearing, the general character of improvements determined upon by the Mayor and Board of Commissioners, the street, avenue, alley, highway, public place, or square, or portion thereof, to be improved, and against the owners thereof, and an estimate of the portion of such cost proposed to be assessed against the owner or owners of any railroad or street railroad occupying such street, avenue, alley, highway, public place or square, or portion thereof.

(C) (1) On the day at the time stated in the notice, any person, firm, or corporation or association interest in any property that may be claimed to be subject to assessment for the purpose of paying the cost of any such improvement or any part thereof, including any railroad or street railroad against the properties of which and/or the owners of which an assessment is proposed, shall be entitled to and shall be afforded a full and fair hearing before the Board of Commissioners, as to all matters affecting the property or any claim of personal liability or objection to any

irregularity or invalidity of any of the proceedings with reference to the making of the improvements, or any other objection thereto. At such time such owner shall have the right to contest any assessment proposed to be levied and any personal liability, the regularity of the proceedings with reference to the improvement and the benefit of the improvement to their property, and no assessment shall be made against the owner of any abutting property or against his property in any event, in excess of the benefit to such owner in the enhanced value of his property by means of such improvement, as ascertained at such hearing.

(2) At the hearing aforesaid, the persons, firms, corporations, or associations making objections shall be afforded opportunity to appear in person or by representative or attorney, and produce evidence, and the hearing may be adjourned from time to time by the Board of Commissioners until fully completed, and the Board of Commissioners shall inquire into and determine all such objections.

(D) Nothing herein contained shall be construed as limiting or in any manner affecting any right or privilege granted or afforded any such owners of abutting property or of any railroad or street railroad by the provisions of applicable state law.
(Ord. 131, passed 4-21-24)

§ 99.03 PROCEDURE FOR PAVING STREETS; INSTALLING CURBS, GUTTERS, AND DRAINAGE.

The following regulations and procedure shall be complied with on paving streets, installing curbs and gutters, and putting in drain pipes or dips at driveways.

(A) Any person, corporation, or company planning to change existing curbing, install culverts, drain pipe, or dips in driveways, must first get permission from the City Street Superintendent as to what type to install and the proper grade so as to provide suitable drainage.

(B) When curb and gutter is installed, it must be installed so as to provide proper drainage on the street and under the supervision of the Street Superintendent.

(C) Any person, company, or corporation desiring to have street paving done in new additions or subdivisions, must first make application to the City Manager's office for permission to install paving. He will then notify the County Commissioner who will determine the amount of footage to be paved and the total cost of the paving. The city will bill the developer for the amount and upon payment of the bill to the city, the Commissioner will be notified to proceed with the work.

(D) Any person, company, or corporation making application for paving must sign an agreement assuming all responsibility for damages from flying asphalt and the like and that the city or county will not be held responsible for such damages, of any kind.

(E) The deadline for making application for paving shall be December 31 for paving to be installed the following summer, in order to provide time for the work to be included in the following year's work program.

(F) Any person, corporation, or company may contract paving work to any contractor so long as it is performed under city supervision. (Ord. 237, passed 5-25-59)

OBSTRUCTIONS; ADVERTISEMENTS

§ 99.15 POSTING OF SIGNS AND THE LIKE ON PUBLIC WAYS AND PLACES.

(A) No person shall paint, mark, or write on, or post or otherwise affix, any sign, handbill, poster, or advertisement of any nature to or upon any sidewalk, crosswalk, curb, curb stone, street lamp post, hydrant, tree, shrub, tree stalk or guide, railroad trestle, electric light or power or telephone pole, public bridge, drinking fountain, or any facility maintained by the city or in public right-of-way maintained by the city.

(B) No off-premises sign shall be permitted in any SF-15, SF-10, SF-6, R-1 and R-2 District identified in Ord. 589, passed 4-17-00, and more commonly referred to as the Zoning Ordinance, as amended. Off-premises sign shall mean any permanent sign, commonly known as a billboard, that advertises a business, person, activity, goods, products or services not located on the premises where the sign is installed and maintained, or that directs persons to a location other than the premises where the sign is installed and maintained.
(Ord. 390, passed 7-16-84; Am. Ord. 685, passed 11-15-04; Am. Ord. 947, passed 4-15-19) Penalty, see § 99.99

§ 99.16 PLACEMENT OF OBSTRUCTIONS PROHIBITED.

No person shall erect, construct, assemble, affix, attach, put, or cause to be put upon any sidewalk, street, alley, or other public place within the city limits, a bench, sign, or other obstruction of any nature.
(Ord. 390, passed 7-16-84) Penalty, see § 99.99

§ 99.17 TRAFFIC VISIBILITY; REMOVAL OF OBSTRUCTIONS ON PUBLIC OR PRIVATE PROPERTY.

(A) Any person owning, occupying, or controlling any lot or other land within the corporate limits of the city, upon which there is planted or growing any tree, hedge, bush, or vine; or owning, occupying, or controlling any lot or other land abutting upon any street within the corporate limits of the city upon which land there is planted or growing any tree, hedge, bush, or vine, shall prune or train the branches or limbs of any such tree, hedge, bush, or vine so that

any of same projecting over any street, alley, sidewalk, or public passageway shall be not less than 13 feet above the surface of a street or alley or seven feet above a sidewalk or public (non-vehicle) passageway.

(B) (1) On any corner lot or parkway adjacent thereto, a fence, wall, structure, sign, hedge, tree, or obstruction of any nature erected, planted, or maintained so as to interfere with sight lines at elevations between two feet and eight feet above the top of the adjacent roadway curb, or if there be no curb then from the average street grade, within a triangular area formed by the intersection of the adjacent curb lines, or if none exists, the normal curb lines, 45 feet from the intersection, shall be prima facie evidence that such fence, wall, structure, sign, hedge, tree, or obstruction of any nature constitutes an obstruction to vision as regards public traffic on the streets.

(2) The triangular area of visibility shall be described and depicted by the drawing at the end of this Ordinance 290. Any such fence, wall, structure, sign, hedge, tree, or obstruction of any nature erected, planted, or maintained in violation of this section shall be removed upon written notice from the City Manager, served upon the owner, agent, or occupant of the premises where such obstruction has been erected, planted, or maintained. In the event the obstruction is not removed within ten days after notice, it may be removed by the city at the expense of the property owner.

(3) Any building or structure built in conformance with the building codes or requirements of the city which fall within this triangular area shall be exempt from the provisions of this section.
(Ord. 290, passed 8-26-68; Am. Ord. 760, passed 2-16-09) Penalty, see § 99.99

§ 99.18 REMOVAL OF SIGNS; COST TO CITY.

Any handbill or sign found posted, or otherwise affixed upon any public property contrary to the provisions of this section may be removed by the Police Department or any other city official. The person responsible for any such illegal posting shall be liable for the cost incurred in the removal thereof and the City Manager or his duly authorized representative is hereby authorized to effect the collection of that cost.
(Ord. 390, passed 7-16-84)

§ 99.19 EXCEPTIONS.

(A) Nothing contained in this subchapter shall apply to the installation of terrazzo sidewalks or sidewalks of similar construction, sidewalks permanently colored by an ad mixture in the material of which the same are constructed, and for which the City Manager or his authorized representative has granted a written permit.

(B) Nothing contained in this subchapter shall apply to merchant sidewalk sales, so long as such sales are temporary in nature (not to exceed 24 hours in duration) and so long as such merchandise, displays, or either of them are not placed in such a manner as to interfere with the free use of such sidewalks or other public place.

(C) Nothing contained in this subchapter shall apply to the installation of a metal plaque or plate or individual letters or figures in a sidewalk commemorating an historical, cultural, or artistic event, location, or personality for which the City Manager, with the approval of the Board of Commissioners, has granted a written permit.

(D) Nothing contained in this subchapter shall apply to the painting of house numbers upon curbs done under permits issued by the City Manager or his duly authorized representative.
(Ord. 390, passed 7-16-84)

§ 99.20 CIVIL ACTION.

In addition to all the other remedies set out in this subchapter, any person, firm, or corporation placing a sign or failing to remove a sign in violation of this subchapter may be prosecuted for violation of this subchapter. Civil actions may be instituted by the City Attorney to enforce the provisions of this subchapter.
(Ord. 390, passed 7-16-84)

§ 99.99 PENALTY.

(A) Any person, firm, copartnership, corporation, joint stock association, or others violating any of the provisions of § 99.01 shall be fined in a sum not to exceed $200, provided that each day any material or supplies placed on the streets or sidewalks in violation of this section shall constitute a separate offense. (Ord. 47, passed 7-7-19)

(B) Any person, firm, or corporation violating any provision of§§ 99.15 and 99.16 shall be fined not less than $5 nor more than $200 for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 390, passed 7-16-84)

(C) Any owner, agent, or occupant violating any of the provisions of § 99.17 shall be subject to a fine of not more than $200. Each day that such owner, agent, or occupant suffers the obstruction to remain shall be deemed a separate offense. (Ord. 290, passed 8-26-68)

CHAPTER 100: REGULATION OF PUBLIC POOLS

Section

100.01 Adoption of rules and regulations
100.02 Definitions
100.03 Offense; penalty for violation
100.04 Permit, certification of Manager of Operations
100.05 Inspections and annual pre-inspections
100.06 Maintenance and operation
100.07 Regulations in pool and spa area; suspension of permit
100.08 Construction compliance and plan review
100.09 Regulations for all persons in aquatic facilities

Statutory reference:

Public pools and spas, V.T.C.A., Health and Safety Code §§ 341.064 et seq.

§ 100.01 ADOPTION OF RULES AND REGULATIONS.

(A) The standards of the following statutes, laws, and regulations in their current form and as they may hereafter be amended, are adopted, amended, and applied into this section as if they were set forth at length herein:

(1) Tex. Health and Safety Code Title 5, § 341.064, "Swimming Pools and Bathhouses;"

(2) Tex. Health and Safety Code Chapter 757, "Pool Yard Enclosures;"

(3) Tex. Administrative Code Title 25, Part I, Chapter 265 Subchapter L, "Standards of Public Pools and Spas;" and

(4) Tex. Administrative Code Title 25, Part I, Chapter 265 Subchapter M, "Public Interactive Water Features and Fountains."

(B) If a conflict occurs between a provision of this chapter and a provision of the above statutes, laws, or regulations, the stricter provision shall apply.

(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-2019)

§ 100.02 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:

"AQUATIC FACILITY." A pool, spa, special aquatic activity device, public interactive water feature, fountain or venue that may be used for swimming or bathing, or other regulated water body as defined by state aquatic facility regulations.

"AUTHORIZED AGENT OR EMPLOYEE." The Director of Health of the regulatory authority, which shall have the enforcement responsibility for this chapter.

"CERTIFIED POOL OPERATOR." A person who:

(1) Possesses a valid and current certificate of accreditation; and

(2) Obtains certification by completion of one of the following courses or other nationally recognized course in aquatic facility operation, safety and management, and:

(a) NRPA, "Aquatic Facility Operator" (A.F.O.);

(b) NSPF, "Certified Pool-Spa Operator" (C.P.O);

(c) Y.M.C.A., "Pool Operator on Location" (P.O.O.L.);

(d) NSPI, "Professional Pool and Spa Operator" (P.P.S.O.);

(e) ASPSA, "Licensed Aquatic Facility Technician" (L.A.F.T.); or

(f) Other training at discretion of the Director of Health.

"COLIFORM TESTING." Refers to total coliform not fecal coliform.

"ENCLOSURE." A fence, wall, or combination of fences, walls, gates, windows, or doors that completely surround an aquatic facility.

"EXTENSIVELY REMODELED." The replacement of or modification to an aquatic facility structure or its enclosure, its circulation system or its appurtenances, so that the design, configuration or operation is different from the original design, configuration or operation, including the installation of new deck detail or tile work that is different from the original design. This term does not include the normal maintenance and repair or the replacement of equipment which has been previously approved if the size, type, or operation of the equipment is not substantially different from the original equipment.

"MANAGER OF OPERATIONS." The person primarily responsible for the safe, sanitary maintenance of a public pool, spa, or other water-related activity.

"PERMIT HOLDER." A local person who has the ultimate responsibility for the operation of any pool, spa, or other related water activity regulated in this chapter, and who shall, in all respects, act as the representative for any entity having an ownership interest in the same.

"PRIVATE AQUATIC FACILITY" Any aquatic facility located on private, single-family residential property under the control of the homeowner or tenant, the use of which is limited to members of the homeowner's or tenant's family or invited guests.

"PUBLIC AQUATIC FACILITY." Any aquatic facility which is intended to be used by the general public for swimming, bathing or other related purposes and is operated by an owner, lessee, operator, licensee or concessionaire, regardless of whether a fee is charged for use.

"REGULATORY AUTHORITY." The Wichita Falls-Wichita County Public Health District.

"SECURED." That an enclosure during normal operation is maintained so that all gates and entrances are maintained closed with functioning self-latching and self-closing mechanisms, and that the enclosure is not allowed to maintain gaps large enough to allow the passage of a four-inch sphere or provide any feature that may be easily climbed to gain access to the aquatic facility. The enclosure during times when the aquatic facility is closed to the public must maintain the above conditions, but the gates or entrances to the enclosure must also be locked so that no person may enter the gates or entrances without the authorization of the certified pool operator and/or the person in charge.

"SEMI-PUBLIC AQUATIC FACILITY." Any aquatic facility which is not included within the definition of either "private aquatic facility" or "public aquatic facility" as those terms are defined in this section.

"SERVICE ANIMAL." A dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

"STATE AQUATIC FACILITY REGULATIONS." The regulations adopted by the State of Texas to regulate public pools and spas, and includes the following, as amended from time to time:

(1) Tex. Health and Safety Code Title 5, § 341.064, "Swimming Pools and Bathhouses;"

(2) Tex. Health and Safety Code Chapter 757, "Pool Yard Enclosures;"

(3) Tex. Administrative Code Title 25, Part I, Chapter 265 Subchapter L, "Standards of Public Pools and Spas;" and

(4) Tex. Administrative Code Title 25, Part I, Chapter 265 Subchapter M, "Public Interactive Water Features and Fountains."
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.03 OFFENSE: PENALTY FOR VIOLATION.

A violation under this chapter is a Class C misdemeanor punishable by a fine of not more than $500. Such person may be enjoined from continuing such violations. Each day upon which such violation occurs constitutes a separate violation.
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.04 PERMIT, CERTIFICATION OF MANAGER OF OPERATIONS.

(A) Permit required; transferability; posting. A person may not operate an aquatic facility without a permit issued by the regulatory authority. Permits are not transferable from one person to another person or from one location to another location. A valid permit must be posted at every establishment regulated by this chapter. Therapeutic pools and class E pools as defined in the standards are not exempt from this section.

(B) Application for permit. A person desiring to operate an aquatic facility must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the pool, the name and address of each manager of operations, and the application fee. An incomplete application will not be processed. Failure to provide all required information or falsifying information required may result in denial or revocation of the permit. All permits will expire March 31 of each year; the same information is required for a renewal permit as for an initial permit. Each pool and spa at each location will be charged a separate permit fee as determined by the regulatory authority.

(C) Certification of Manager of Operations.

(1) A Manager of Operations of an aquatic facility shall obtain certification from the regulatory authority. A Manager of Operations may obtain certification by successfully completing a training course conducted by the regulatory authority. No person will be allowed to act as the manager of operations without first having obtained certification.

(2) At least two certification training programs will be conducted per year. The fee for certification of a manager of operations shall be determined by the regulatory authority, and the certification shall expire one year following its issuance.

(3) A person showing a current certificate as a Certified Aquatic Facility Operator (A.F.O.), Certified Pool-Spa Operator (C.P.O.), a Pool Operator on Location (P.O.O.L.) or any other training approved by the regulatory authority, may be exempt from the health district training as long as:

(a) Facilities constructed before the adoption of this chapter must comply with all provisions of this chapter and all future amendments to this chapter, unless the regulatory authority grants a variance in writing, or unless otherwise exempted under Tex. Health and Safety Code § 757.005;

(b) If a variance to this chapter is issued by the regulatory authority, the permit applicant must annually reapply for the variance in writing. The granting of a variance does not guarantee that the Director will grant future variances; and

(c) All fees are non-refundable and will not be prorated.
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.05 INSPECTIONS AND ANNUAL PRE-INSPECTIONS.

(A) The regulatory authority is authorized to conduct inspections as necessary to ensure compliance with all sections of this chapter. The regulatory authority shall have the right-of-entry at any reasonable hour upon the premises where an aquatic facility is located. The regulatory authority shall have the authority to collect water samples from the aquatic facility for laboratory analysis.

(B) Each public or semi-public aquatic facility shall pass an annual pre-operation inspection by the regulatory authority prior to use by the public each permit year. There shall be no charge for one preliminary pre-operation inspection that is not requested by the facility and for one pre-operation inspection that is requested by the facility; a re-inspection fee shall be required for all further pre-operation inspections.

(C) Effective with permit renewal in 2020, each public or semi-public aquatic facility shall also annually submit certification by a licensed, registered electrician that the electrical equipment for the aquatic facility meets all local, state, and federal electrical codes on a form promulgated by the city.
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.06 MAINTENANCE AND OPERATION.

(A) Every aquatic facility shall be under the supervision of the permit holder, who shall be responsible for compliance with all parts of this article relating to aquatic facility maintenance, aquatic facility operation, and safety of swimmers. It shall be unlawful for such permit holder to cause or permit the existence of a condition which violates any section of this chapter. It shall be the duty of the certified pool operator and or an appropriately trained designee to:

(1) Assure that someone can physically respond within one hour of being notified by the regulatory authority to the site of the aquatic facility; and

(a) Check at least once per day that the aquatic facility remains in compliance with this chapter and with state aquatic facility regulations;

(b) Check and record water chemistry at least once per day for each aquatic facility permitted to ensure compliance with state and local aquatic facility regulations, including:

1. Disinfectant levels;

2. pH levels; and

3. Cyanuric acid levels (if applicable).

(c) Ensure that an appropriate method is used to check water chemistry as specified in state aquatic facility regulations.

1. Retain records of daily water chemistry checks for at least two years on site;

2. All records must be made available to the regulatory authority upon request; and

3. Register certification as a certified pool operator or manager of operations with the regulatory authority and maintain a copy of the registration on-site at the facility. In the event that the certified pool operator/manager of operations is no longer employed on premises, the aquatic facility must employ another certified pool operator/manager of operations who possesses or obtains a current Wichita Falls Wichita County Public Health District Manager of Operations or certified pool operator as defined by this chapter.

(2) To ensure compliance with this chapter, it is recommended that all Manager of Operations/Certified Pool Operators use a DPD test kit certified by the American National Standards Institute (ANSI).

(B) All pumps, filters, sanitizers, and chemical feeders, drains, ladders, lighting, ropes and appurtenant equipment used in the operation of all aquatic facilities, shall be maintained in a good state of repair.

(C) All aquatic facilities shall be treated and maintained in accordance with current state Department of Health Standards unless otherwise stated:

(1) Every pool shall contain a sanitizer concentration equivalent to a free chlorine residual between 1.0-8.0 ppm. Every spa shall contain a minimum sanitary concentration equivalent to a free chlorine residual of 3.0 - 8.0 ppm minimum. If an aquatic facility is outside the required range of free chlorine residual equivalent, then the aquatic facility shall be immediately closed to the public. A test kit for measuring the concentration of the free chlorine shall be present at each aquatic facility. The regulatory authority must approve use of any sanitizer other than chlorine.

(2) Every aquatic facility shall have water with a pH of not less than 7.2 and not more than 7.8. An adequate pH test kit shall be present at each aquatic facility. If an aquatic facility test shows an acid reaction less than 7.2 or basic reaction over 7.8, then the aquatic facility shall be immediately closed to the public.

(3) The presence of microorganisms of the total coliform group or E. coli in any water sample shall be deemed unacceptable water quality. Two consecutive samples showing microorganisms of total coliform will be grounds for immediate closure of the aquatic facility.

(4) Every aquatic facility shall have water clarity sufficient for the main drain or a six-inch diameter turbidity test disk placed at the deepest part of the aquatic facility, to be visible from the sidewalks of the aquatic facility at all distances up to ten yards, measured from a line drawn across the pool through the disc. Failure to meet this requirement shall be sufficient cause for immediate closure of the aquatic facility.

(5) A 15-minute maximum timer will be installed and operational at each spa. The timer must be located so that it cannot be reached unless a person exits the spa.

(6) Cyanuric acid shall not exceed 100 ppm in any aquatic facility. If the level exceeds 100 ppm, the facility shall close until the level can be lowered to below 80 ppm.

(7) During any routine inspection, if the regulatory authority is required to close the pool for non-compliance, a re-inspection fee may be charged to the permit holder for each requested return visit for re-inspection
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.07 REGULATIONS IN POOL AND SPA AREA; SUSPENSION OF PERMIT.

(A) A person commits an offense if he or she violates any portion of this chapter or the standards set forth by the State Department of Health.

(B) Failure to comply with any section of this chapter may result in the immediate closure of the aquatic facility and/or the initiation of legal action. Upon determination that the aquatic facility does not comply with the provisions of this chapter, the regulatory authority shall notify the permit holder or Manager of Operations of the existing violations. If the regulatory authority determines that the condition of the aquatic facility may be hazardous to the health or safety of the swimmers or the general public, the aquatic facility shall be immediately closed. A new water sample and inspection of the aquatic facility will be conducted from 8:00 a.m. to 2:00 p.m., Monday through Thursday at the request of the pool Manager of Operations or the permit holder. The aquatic facility water must completely turnover through the filtration and chlorination system at least once before reinspection and resampling. If compliance has been achieved, the permit holder shall be notified that the aquatic facility may be opened.

(C) When the regulatory authority has ordered that an aquatic facility be closed due to noncompliance with any provision of this chapter, the permit holder shall not allow the aquatic facility to be used for swimming, diving or bathing purposes and shall immediately take every reasonable step to prevent the use of such aquatic facility for such purposes. By way of example and without limiting such duty, the permit holder shall immediately:

(1) Post notices reasonably likely to come to the attention of potential users of the pool or spa advising of the closure;

(2) Lock all gates and doorways in any fence or other enclosure surrounding such pool; and

(3) Failure to immediately comply with the above will result in the regulatory authority posting a sign at the pool, which states, "Pool Closed by Order of the Wichita Falls-Wichita County Public Health District." It shall be unlawful to remove, cover, or mutilate such sign without the approval of the regulatory authority. Use of the aquatic facility by an individual for swimming, diving or bathing purposes after the regulatory authority has ordered such aquatic facility to be closed shall be deemed prima facie evidence that the permit holder of such aquatic facility has knowingly allowed the aquatic facility to be used for such purposes.

(D) The regulatory authority shall suspend a permit to operate a public pool or spa if:

(1) A permit holder fails to designate a certified Manager of Operations as specified in this chapter;

(2) The condition or operation of a pool or spa is considered to be hazardous or constitutes an imminent health hazard to the health or safety of swimmers or the general public;

(3) The permit holder fails to keep all spa equipment and devices working properly; or

(4) The suspension shall continue until the regulatory authority has conducted a new inspection, and the cause of suspension is corrected.
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.08 CONSTRUCTION COMPLIANCE AND PLAN REVIEW.

(A) Prior to beginning the construction of a new aquatic facility or the extensive remodeling of an existing aquatic facility, the owner shall submit plans and specifications for such construction or remodeling to the City Building Inspections Department for review.

(B) The plans and specifications shall indicate the proposed layout and arrangement of mechanical, plumbing, fencing, electrical, construction materials of work areas, the type, and model of proposed fixed equipment and facilities and all associated buildings or structures.

(C) A licensed professional engineer shall examine the final aquatic facility design/blueprints for all new and extensively remodeled aquatic facilities (including structural, mechanical, plumbing or electrical renovations) and certify by original signature and engineer's seal compliance with state aquatic facility regulations and this chapter.

(D) No work shall begin until regulatory authority has received the engineer's certificate of pre-construction, conducted a plan review, and has communicated with the City Building Inspections Department that a building permit may be issued. Work shall commence and conclude within the time allowed by such permits. Deviations from approved plans shall not be permitted without approval in writing from the regulatory authority and the City Building Inspections Department. If no work has begun within 180 days from the date the regulatory authority has given written notice that work may begin, or if work has begun and is halted more than 60 days, the Director may withdraw approval.

(E) The aquatic facility construction shall pass a pre-gunite inspection, pre-plaster inspection and pre-operational inspection by the regulatory authority prior to issuance of a permit. The completion of these inspections by a regulatory authority does not substitute or replace inspections required by other departments within the city.

(F) It is the responsibility of the person in charge to ensure that the building permit applicant and licensed professional engineer comply with all zoning, building, fire, and health ordinances of the city.
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

§ 100.09 REGULATIONS FOR ALL PERSONS IN AQUATIC FACILITIES.

A person commits an offense if they:

(A) Have skin abrasions, open sores, skin disease, eye disease, nasal or ear discharge, diarrhea, or a communicable disease and bathes in a public or semi-public aquatic facility;

(B) Alter or remove safety equipment or signage from a public or semi-public aquatic facility except in an emergency;

(C) Alter or damage any part of a public or semi-public aquatic facility enclosure or allows the aquatic facility enclosure to remain unsecured while the enclosure is under repair; or

(D) Alter or damage drain and/or suction outlet covers or grates;

(E) Carry glass within a public or semi-public aquatic facility area or enclosure; or

(F) Allow an animal under their control to enter or remain within the aquatic facility, area or enclosure of a public or semi-public aquatic facility without approval from the regulatory authority, unless the animal is a service animal;

(G) Interfere with or obstructs the regulatory authority while they are in the process of enforcing this chapter; or

(H) If they are the Manager of Operations or Certified Pool Operator or person in charge and knowingly or intentionally violate any provision of this chapter.
(Ord. 781, passed 5-17-10; Am. Ord. 948, passed 5-30-19)

CHAPTER 101: CHILD SAFETY AREAS

Section

101.01 Findings, purpose and intent
101.02 Definitions
101.03 Sex offender prohibited from establishing residence or loitering in or near child safety area
101.04 Solicitation of trick or treaters
101.05 Property owners prohibited from renting real property within child safety area to registered sex offenders
101.06 Evidentiary matters
101.07 Exceptions

101.99 Penalty

§ 101.01 FINDINGS, PURPOSE AND INTENT.

(A) The Board of Commissioners of the city finds:

(1) That the available evidence indicates that the recidivism rate for sex offenders is alarmingly high, especially for those sex offenders whose victims are children; and

(2) That the regulations and penalties established by this chapter are necessary to promote the public health of the city's citizens, particularly the physical and mental health of the children who reside within the City, and to regulate circumstances which are a threat to public health and to punish violations of those regulations, as contemplated by Tex, hoc. Govt. Code § 54.001(b).

(B) The regulations established by this chapter serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein sex offenders are prohibited from loitering or prohibited from residing and by prohibiting contact by Sex Offenders with children who trick or treat.
(Ord. 783, passed 7-19-10)

§ 101.02 DEFINITIONS.

For the purposes of this chapter, the following terms, words and the derivations thereof shall have the meaning given herein.

"CHILD." Any person under the age of 18.

"CHILD CARE FACILITY." A facility which provides care, training, education, custody or supervision for at least four children who are not related by blood, marriage, or adoption to the owner or operator of the facility, for part of the 24-hour day, at least three days per week, whether or not the facility is operated for profit or charges for the services it offers.

"CHILD SAFETY AREA." Any tract or parcel of land on which any of the following facilities are located: public parks, private and public schools, public libraries, amusement arcades, video arcades, indoor and

outdoor amusement centers, amusement parks, public or commercial swimming pools, child care facilities, public or private youth soccer or baseball field or other areas where youth sports activities occur, crisis center or shelter, skate park or rink, public or private youth center, movie theater, bowling alley, scouting facilities and offices for Texas Department of Family and Protective Services.

"DATABASE." The Texas Department of Public Safety's Sex Offender Database or the Sex Offender Registration files maintained by the Sex Offender Registration Officer of the Burkburnett Police Department.

"GUARDIAN." An individual who has been formally appointed as the guardian of a child by a court of competent jurisdiction pursuant to Chapter XIII of the Texas Probate Code or similar statute of another state and whose appointment is valid and effective in this state at the time it is relied upon pursuant to the regulations of this chapter.

"LOITER." Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around an area.

"PUBLIC WAY." Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, shopping centers, parking lots, transportation facilities, restaurants, shops and similar areas that are open to the use of the public.

"RESIDE." To live, dwell, abide, stay, or lodge for a period of more than one day.

"RESIDENCE." Any house, apartment, mobile home, manufactured home, or structure capable of human habitation.

"SCHOOL." A private, public, or charter elementary or secondary school.

"SEX OFFENDER." An individual who has been:

(1) Convicted of, or placed on deferred adjudication for, a sexual offense involving a person under 17 years of age for which the individual is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure or

(2) Civilly committed as a sexually violent predator under Chapter 841 of the Texas Health and Safety Code and is subject to outpatient treatment and supervision under that chapter.
(Ord. 783, passed 7-19-10)

§ 101.03 SEX OFFENDER PROHIBITED FROM ESTABLISHING RESIDENCE OR LOITERING IN OR NEAR CHILD SAFETY AREA.

(A) A sex offender may not intentionally or negligently reside within 1,000 feet of a child safety area. The distance of 1,000 feet from a child safety area 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 nearest child safety area. If a sex offender has

multiple residences, the distance from the child safety area shall be measured from the property line of the residence or structure nearest the child safety area.

(B) A sex offender may not intentionally or negligently enter a child safety area or intentionally or negligently loiter on a public way within 300 feet of a child safety area. The distance of 300 feet shall be measured on a straight line from the closest boundary of the child safety area.
(Ord. 783, passed 7-19-10)

§ 101.04 SOLICITATION OF TRICK OR TREATERS.

A sex offender to whom this chapter applies shall not, on each October 30 and 31 or any other date set by the city for trick-or-treaters, between the hours of 4:00 p.m. and 11:00 p.m., leave an exterior porch light on or otherwise invite trick-or-treaters to solicit the premises where the sex offender resides or that the sex offender is occupying.
(Ord. 783, passed 7-19-10)

§ 101.05 PROPERTY OWNERS PROHIBITED FROM RENTING REAL PROPERTY WITHIN CHILD SAFETY AREA TO REGISTERED SEX OFFENDERS.

(A) It is unlawful for any person to knowingly let or rent any residence or part thereof, located within 1,000 feet of a child safety area to any sex offender or to any person who will allow a sex offender to occupy the residence.

(B) Any person who rents or leases a residence located within 1,000 feet of a child safety area must inform the owner or leasing agent of the owner if the person intends to allow or will likely allow any person who is a sex offender to occupy the residence at any time during the tenancy.
(Ord. 783, passed 7-19-10)

§ 101.06 EVIDENTIARY MATTERS.

(A) It shall be prima facie evidence that this chapter applies to a person if that person's record appears in or on the database and the database indicates that the person's victim was less than 17 years of age.

(B) A map depicting all child safety areas shall be created by the Chief of Police of the Burkburnett Police Department showing each child safety area within the city and showing the area within 300 feet of such child safety areas and the area within 1,000 feet of such child safety areas. The map will be available to the public at City Hall and the Police Department and may be posted on the city website. The areas within 300 feet of such child safety areas and the areas within 1,000 feet of such child safety areas shown on such map shall be prima facie evidence of the areas referred to in this chapter.
(Ord. 783, passed 7-19-10)

§ 101.07 EXCEPTIONS.

(A) The regulations established by § 100.03(A) above (prohibiting a sex offender from residing in certain areas) shall not apply to:

(1) A sex offender who established their residence within 1,000 feet of a child safety area prior to the adoption of these regulations; provided such person has not abandoned such residence at any time after adoption of these regulations; or

(2) A sex offender who established their residence within 1,000 feet of a child safety area prior to the time the area was designated as being within 1,000 feet of a child safety area; provided such person has not abandoned such residence at any time after the designation of the area as a child safety area.

(B) The regulations established by § 100.05 (prohibiting the rental of residences located within 1,000 feet of a child safety area to a sex offender or to be occupied by a sex offender) shall not apply to:

(1) An owner, landlord or lessor who, prior to the adoption of these regulations, rented a residence to a sex offender or to any person who allows it to be occupied by a sex offender; provided, however, if the rental or lease is terminated or the sex offender vacates the residence after the designation of the area in which the residence is located as being within 1,000 feet of a child safety area, such residence may not knowingly be re-rented or re-let to a sex offender or to any person intending to allow a sex offender occupy the residence and the regulations established by this chapter shall apply; or

(2) A residence rented or let to a sex offender or to a person who allows a sex offender to occupy the residence under circumstances where such residence was designated as being within 1,000 feet of a child safety area after it was rented or leased; provided, however, if the rental or lease is terminated or the Sex Offender vacates the residence after the designation of the area in which the residence is located as being within 1,000 feet of a child safety area, such residence may not be re-rented or re-let to a sex offender or to any person intending to allow a sex offender to occupy the residence and the regulations established by this chapter shall apply.

(C) This chapter shall not apply to a sex offender who is under 18 years of age or whose offense for which the sex offender registration was required, reversed on appeal or pardoned.

(D) Notwithstanding the prohibition on occupancy provided by these regulations, nothing in this chapter shall require a Sex Offender to sell or otherwise dispose of any residence acquired or owned by them prior to the conviction of the person as a sex offender.

(E) The regulations established by § 100.03(B) above (prohibiting a sex offender from entering child safety areas and within 300 feet of child safety areas) shall not apply to a sex offender:

(1) Who is attending scheduled religious services, classes or events at a church or house of worship; or

(2) Who schedules and attends a meeting with clergy or other religious leaders or staff at a church or house of worship.

(F) The regulations established by § 100.03(B) above (prohibiting a sex offender from entering child safety areas and within 300 feet of child safety areas) shall not apply under the following circumstances where the sex offender is related (in the manner specified below) to a student who is enrolled or eligible to be enrolled in a school or day care center (herein referred to as a "Student"):

(1) A sex offender who is the parent or guardian of a Student may schedule a meeting with a teacher or school administrator at a school or day care center if that is done prior to the time of the meeting and may attend the meeting to discuss matters pertaining to the student or the student's enrollment in said school or day care center, and

(2) A sex offender may attend a scheduled event at a school or day care center if a Student that is participating in the scheduled event is the child, grandchild, or sibling of the sex offender, or a child for whom the sex offender is a guardian.
(Ord. 783, passed 7-19-10)

§ 101.99 PENALTY.

(A) The violation of any of the regulations established by this chapter shall constitute an offense.

(B) Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof may be fined an amount not to exceed $2,000.00 as allowed by law. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.
(Ord. 783, passed 7-19-10)

CHAPTER 102: SMOKING IN PUBLIC PLACES

Section

102.01 Definitions
102.02 Smoking prohibited in public places
102.03 Exemptions
102.04 Voluntary designation of a non-smoking campus
102.05 Smoking in taxicabs prohibited
102.06 Signs required
102.07 Retaliation prohibited
102.08 Enforcement
102.09 Public education
102.10 Minor access to tobacco products

102.99 Penalty

§ 102.01 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:

"BAR." An area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admission. A restaurant that contains a bar is not included, as minors are admitted in these areas.

"DIRECTOR." Chief administrative officer of the city-county public health district.

"ELECTRONIC SMOKING DEVICE." Any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

"EMPLOYEE." A person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

"EMPLOYER." Any person, including a municipal corporation, or nonprofit entity who employs the services of one or more individual persons.

"ENCLOSED AREA." A space that is enclosed on all sides by solid partitions that extend from the floor to the ceiling, including but not limited to screens, walls, windows, and doors.

"OPERATOR." The owner or person in charge of a public place or workplace, including an employer.

"PUBLIC PLACE." An enclosed area or any portion thereof to which the public is invited or in which the public is permitted or allowed access, including but not limited to: banks, bars, bingo halls, educational facilities, fraternal organizations, health care facilities, hotel and motel rooms, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, waiting rooms, and workplaces. All city-owned facilities, including parks, are public places for the purpose of this chapter. A private residence is not a "PUBLIC PLACE" unless it is used as a childcare, adult day care, or health care facility.

"RETAIL TOBACCO STORE" or "RETAIL ELECTRONIC CIGARETTE STORE." A retail store whereby 75% of quarterly sales are from tobacco products and accessories, to include electronic cigarettes, in which the sale of other products is merely incidental.

"SMOKE." To inhale, to exhale, to burn or to carry any lighted cigar, pipe, cigarette, weed or other plant in any manner or form, or to use an electronic smoking device.

"WORKPLACE." An enclosed area under the control of a public or private employer in which employees work or have access to during the course of their employment.
(Ord. 882, passed 7-20-15; Am. Ord. 959, passed 11-18-19)

§ 102.02 SMOKING PROHIBITED IN PUBLIC PLACES.

(A) A person commits an offense if the person smokes in a public place.

(B) A person commits an offense if the person smokes in an enclosed area in a building or facility owned, leased, or operated by the city.

(C) A person commits an offense if the person smokes in an enclosed area of a workplace.

(D) A person commits an offense if the person smokes within:

(1) Twenty feet of an entrance or open window of a public place, if the operator of the public place allows entry to children under the age of 18 years; or

(2) Five feet of an entrance or open window of a public place, if the operator of the public place does not allow entry to children under the age of 18 years.

(E) The owner or operator of a public place commits an offense if said owner or operator witnesses a person smoking in the public place and:

(1) Within five minutes of witnessing the smoker, fails to request the smoker to cease smoking;

(2) Provides further service to the smoker; or

(3) Within five minutes of witnessing the smoker, fails to request the smoker to leave the premises if the smoker has been requested to cease smoking and the smoker continues to smoke in the public place.

(F) A person commits an offense if the person smokes in or within 20 feet of an area designated as a city park in § 97.02 of the Code of Ordinances.

(G) A person commits an offense if the person smokes in or within 20 feet of the Boomtown Aquatic Center.

(H) A person commits an offense if the person smokes on a side walk in front of, behind, next to or adjacent to a public place. (Ord. 882, passed 7-20-15)

§ 102.03 EXEMPTIONS.

This chapter does not apply to:

(A) A private residence, except when used as child care, adult day care or health care facility;

(B) A retail tobacco store;

(C) A retail electronic cigarette store;

(D) Before June 17, 2016, a public place that was a bar;

(E) Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than 20% of rooms rented to guests in a hotel or motel may be designated as smoking rooms. All smoking rooms must be on the same floor, must be contiguous and must be clearly marked as smoking rooms. Nonsmoking rooms must also be clearly marked as nonsmoking rooms. Smoke must not infiltrate into any area where smoking is otherwise prohibited under this chapter. The status of rooms as smoking or nonsmoking may not be changed, except to use a designated smoking room as a nonsmoking room. Smoking is prohibited in all common areas of the hotel or motel, including the hallways adjacent to smoking rooms.

(F) Buildings or portions of buildings owned by fraternal organizations (as that term is defined by Sec. 32.11 Texas Alcoholic Beverage Code) that received the certificate of occupancy prior to July 1, 2015 and are used solely for the use of their members. (Ord. 882, passed 7-20-15)

§ 102.04 VOLUNTARY DESIGNATION OF A NON-SMOKING CAMPUS.

Nothing in this chapter shall be construed to prohibit the owner or operator of an enclosed or outdoor public place from voluntarily designating his or her property as non-smoking.
(Ord. 882, passed 7-20-15)

§ 102.05 SMOKING IN TAXICABS PROHIBITED.

(A) It shall be an offense for any individual to smoke in a taxicab.

(B) An owner or holder of a taxicab franchise commits an offense if the owner or his designee permits any individual to smoke in a taxicab.

(C) The holder of a taxicab service franchise shall conspicuously post a sign in each taxicab that indicates smoking is prohibited.
(Ord. 882, passed 7-20-15)

§ 102.06 SIGNS REQUIRED.

(A) The owner or operator of a public place shall conspicuously post a "No Smoking" sign, the international "No Smoking" symbol (depiction of a burning cigarette enclosed in a red circle with a red bar across it), or other sign containing words or pictures that could reasonably be understood as an intent to prohibit smoking:

(1) In each public place and workplace where smoking is prohibited by this chapter; and

(2) At each entrance to a public place or workplace where smoking is prohibited by this chapter.

(B) The operator of a public place shall conspicuously post signs in areas where smoking is permitted through an exemption under this chapter.

(C) The operator of a public place or an employer shall remove any ashtrays or other smoking accessories from a place where smoking is prohibited.

(D) It is not a defense to prosecution under this chapter that an operator failed to post a sign required under this section.
(Ord. 882, passed 7-20-15)

§ 102.07 RETALIATION PROHIBITED.

(A) A person commits an offense if the person discharges, refuses to hire, or retaliates against a customer, employee, or applicant for employment because the customer, employee or applicant for employment reports a violation of this chapter.

(B) An employee who works in a setting where an employer permits smoking under this chapter does not waive or otherwise surrender any legal right the employee may have against the employer or any other party.
(Ord. 882, passed 7-20-15)

§ 102.08 ENFORCEMENT.

(A) This section is cumulative of other laws providing enforcement authority.

(B) A person may report a violation of this chapter to the Director of the Health District or his/her designee.

(C) The Director or his/her designee may enforce this chapter and may seek injunctive relief in addition to any civil or criminal penalties associated with a violation.

(D) The Director or his/her designee may suspend or revoke a permit or license issued by the Director to the operator of a public place or workplace where a violation of this chapter occurs, in addition to any other available remedies.
(Ord. 882, passed 7-20-15)

§ 102.09 PUBLIC EDUCATION.

(A) The Director or his/her designee shall:

(1) Obtain or develop a comprehensive tobacco education program to educate the public about the harmful effect of tobacco and its addictive qualities;

(2) Conduct informational activities to notify and educate businesses and the public about this chapter; and

(3) Coordinate the city's tobacco education program with other civic or volunteer groups organized to promote smoking prevention and tobacco education.

(B) To implement this section, the Director or his/her designee may publish and distribute educational materials relating to this chapter to businesses, their employees, and the public.
(Ord. 882, passed 7-20-15)

§ 102.10 MINOR ACCESS TO TOBACCO PRODUCTS.

A retail establishment shall only place tobacco products and electronic smoking devices for sale behind a sales counter or in another secure location that prevents minors from accessing the products without the intervention of an employee.
(Ord. 882, passed 7-20-15)

§ 102.99 PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding $200. However, if the maximum penalty provided by this code for any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this code. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.
(Ord. 882, passed 7-20-15)

CHAPTER 103: STANDING AND FLOWING WATER

Section

103.01 Standing and flowing water prohibited unless treated
103.02 Prohibited containers or places of water accumulation
103.03 Methods of treatment
103.04 Evidence of violation
103.05 Notice
103.06 Abatement by Health Officer
103.07 Violation
103.08 Right of entry

103.99 Penalty

§ 103.01 STANDING AND FLOWING WATER PROHIBITED UNLESS TREATED.

It shall be unlawful for any person to have, keep, maintain, cause or permit, within the city limits, any collection of standing or flowing water in which insects, including mosquitoes, breed or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding.
(Ord. 916, passed 4-17-17)

§ 103.02 PROHIBITED CONTAINERS OR PLACES OF WATER ACCUMULATION.

Collection of water included in § 103.01 shall be water contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, tires, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, sinks, flush closets or other similar water containers.
(Ord. 916, passed 4-17-17)

§ 103.03 METHODS OF TREATMENT.

The methods of treatment of any collections of water specified in § 103.02, directed to the prevention of the breeding of insects, including mosquitoes, shall be approved by the Code Enforcement Officer, and may be any one or more of the following:

(A) Complete emptying and thoroughly drying or cleaning every seven days of unscreened containers;

(B) Using a larvicide approved and applied under the direction of the Code Enforcement Officer;

(C) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with fish that eat mosquitoes and mosquito larvae;

(D) Completely filling or draining to the satisfaction of the Code Enforcement Officer;

(E) Proper disposal, by removal or destruction, of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water.
(Ord. 916, passed 4-17-17)

§ 103.04 EVIDENCE OF VIOLATION.

The natural presence of insect, including mosquito, larvae in standing or running water shall be evidence that such insects, including mosquitoes, are breeding in the container(s) or place(s) of water accumulation. The Code Enforcement Officer shall provide written notice of the presence of the insects or larvae to the owner of the property. Failure to prevent such breeding within five days after notice by the Code Enforcement Officer shall be deemed a violation of this chapter by all individuals or entities receiving such notice.
(Ord. 916, passed 4-17-17)

§ 103.05 NOTICE.

(A) Notice shall be given:

(1) Personally to the owner in writing;

(2) By letter addressed to the owner at the owner's post office address as recorded in the appraisal district records of the county appraisal district; or

(3) If personal service cannot be obtained or the owner's post office address is unknown:

(a) By publication at least once in a newspaper of general circulation within the city; and

(b) By posting the notice on or near the front door of each building on the property to which the violation relates; or

(c) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(B) If a notice to a property owner is mailed in accordance with this section and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
(Ord. 916, passed 4-17-17)

§ 103.06 ABATEMENT BY HEALTH OFFICER.

Should the individual(s) or entities responsible for conditions giving rise to the breeding of insects, including mosquitoes, fail or refuse to take necessary measures to remedy and prevent the breeding of insects, including mosquitoes, within five days after receipt of notice under § 103.05, the Code Enforcement Officer is authorized to take such

actions that are necessary to remedy the existing condition and prevent further breeding. All necessary cost incurred by the city for this purpose shall be a charged against the property owner and any other offending person or entity. The city shall place a lien in the amount incurred by the city to remedy the condition and prevent further breeding on the real property at which the condition existed.
(Ord. 916, passed 4-17-17)

§ 103.07 VIOLATION.

Any individual or entity that receives notice under § 103.05 and fails, within the time designated by this chapter or within the time stated in the notice, to perform the required remediation and prevention to the satisfaction of the Code Enforcement Officer shall be deemed guilty of a violation of this chapter.
(Ord. 916, passed 4-17-17)

§ 103.08 RIGHT OF ENTRY.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or whenever the Code Enforcement Officer has reasonable cause to believe that there exists in a violation of this chapter, the Code Enforcement Officer is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that, if the structure or property on which the violation exists is occupied, the Code Enforcement Officer shall present credentials to the occupant and request entry. If such structure or property is unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or property and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry, such as obtaining a warrant pursuant to state and local laws.
(Ord. 916, passed 4-17-17)

§ 103.99 PENALTY.

Any person, firm or corporation that violates, disobeys, neglects or refuses to comply with, or that resists the enforcement of any of the provisions of this chapter, shall be fined in an amount not to exceed $2,000 for each offense.
(Ord. 916, passed 4-17-17)

CHAPTER 104: NETWORK NODES AND NODE SUPPORT POLES

Section

104.01 Purpose and scope
104.02 Definitions
104.03 Permitted use; application and fees
104.04 Action on permit applications
104.05 Public right-of-way; maximum height and other requirements
104.06 Effect of permit
104.07 Removal, relocation or modification of network nodes
104.08 Public right-of-way use rate
104.09 Service poles in the public right-of-way
104.10 Transport facilities
104.11 Rate adjustment
104.12 Design Manual

§ 104.01 PURPOSE AND SCOPE.

(A) Purpose. The purpose of this chapter is to establish policies and procedures for the placement of node support poles in the right-of-way and network nodes in the public right-of-way and on service poles within the city's jurisdiction, which will provide public benefits and will be consistent with the preservation of the integrity, safe usage, and visual qualities of the city public right-of-way and the city as a whole.

(B) Intent. In enacting this chapter, the city is establishing uniform standards to address issues presented by network nodes, including without limitation, ensuring that network nodes or node support poles do not adversely affect:

(1) Use of streets, sidewalks, alleys, parkways and other public ways and places;

(2) Vehicular and pedestrian traffic;

(3) The operation of facilities lawfully located in public right-of-way or public property;

(4) The ability of the city to protect the environment, including the prevention of damage to trees;

(5) The character of residential and historic areas, and city parks, in which network nodes may be installed; and

(6) The rapid deployment of network nodes to provide the benefits of wireless services.

(C) Conflicts with other chapters. This chapter supersedes all chapters, parts of chapters or rules adopted prior hereto that are in conflict herewith, to the extent of such conflict.
(Ord. 930, passed 11-20-17)

§ 104.02 DEFINITIONS.

All terms used in this chapter, not specifically defined herein, have the meaning provided in the Texas Local Government Code, Chapter 284.

"APPLICABLE LAW." Texas Local Government Code, Chapter 284.

"APPLICANT." Any person who submits an application and is a network provider.

"APPLICATION." A request submitted by an applicant:

(1) For a permit to collocate network nodes; or

(2) To install a transport facility; or

(3) Approve the installation, replacement or modification of a pole.

"CITY CODE." Those ordinance provisions relevant to use of the public right-of-way where compliant with applicable law.

"Day." Calendar day.

"PERSON." An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the city.

"ROUTINE MAINTENANCE."

(1) Work in the public right-of-way that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;

(2) Replacing or upgrading a network node or pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or

(3) The installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles, in the public right-of-way.

"TECHNICAL GROUNDS." In light of prevailing industry and engineering standards, reasons of insufficiency of capacity, safety, reliability and/or generally applicable engineering purposes consistent with applicable law and City Code.
(Ord. 930, passed 11-20-17)

§ 104.03 PERMITTED USE; APPLICATION AND FEES.

(A) Permitted use. Collocation of network nodes and the placement of node support poles, meeting the parameters set forth in § 104.05 and in applicable law, shall be a permitted use. No zoning or land use review shall apply, subject to the requirements in § 104.05.

(B) Permit required. No person shall place a network node, transport facility or node support pole in the public right-of-way, without first filing a permit application and obtaining a permit therefor, except as otherwise provided in this chapter.

(C) Permit application. All permit applications filed pursuant to this chapter shall be on a form, paper or electronic, provided by the city. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(D) Application requirements. The permit application shall be made by the network provider or its duly authorized representative and shall contain the following:

(1) The applicant's name, address, telephone number, and e-mail address;

(2) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;

(3) Construction and engineering drawings and information confirming the locations of each network node, transport facility and node support pole and confirming that the construction will be consistent with City Code;

(4) Certification that each network node complies with applicable Federal Communications Commission regulations;

(5) Certification by a network provider that each proposed network node will be placed into active commercial service by or for that network provider not later than the 60th day after the date the construction and final testing of the network node is completed.

(E) Routine maintenance and replacement. A permit application shall not be required for:

(1) Routine maintenance; or

(2) The replacement of a node with another node that is substantially similar.

(F) Information updates. Any amendment to information contained in a permit application shall be submitted in writing to the city within 30 days after the change necessitating the amendment.

(G) Application fees. All applications for permits pursuant to this chapter shall be accompanied by a fee of $500 for up to five network nodes addressed in the same application, $250 for each additional node in the same application; and a fee of $1,000 for each node support pole.
(Ord. 930, passed 11-20-17)

§ 104.04 ACTION ON PERMIT APPLICATIONS.

(A) Review of applications. The city shall review applications for network nodes, node support poles and transport facilities in light of their conformity with applicable law and City Code and shall issue such permits on nondiscriminatory terms and conditions subject to the following requirements:

(1) Within 30 days of receiving an application for a network node or node support pole, or ten days for a transport facility, the city shall determine and notify the applicant whether the application is complete; or if incomplete, the city must specifically identify the missing information in such notification. There shall be no fee charged for completion and resubmittal of an application.

(2) The city shall make its final decision to approve or deny a complete application no later than:

(a) 21 days after receipt of a complete application for a transport facility;

(b) 60 days after receipt of a complete application for a network node; and

(c) 150 days after receipt of a completed application for a new node support pole.

(3) The city shall advise the applicant in writing of its final decision, and, if denied, the basis for that denial, including specific provisions of City Code or applicable law on which the denial was based, and send the documentation to the applicant on or before the day the city denies the application. The applicant may cure the deficiencies identified by the city and resubmit the application within 30 days of the denial without paying an additional application fee. The city shall approve or deny the revised application within 90 days of receipt of the amended application. The subsequent review by the city shall be limited to the deficiencies cited in the original denial.

(4) If the city fails to act on an application within the review period specified in this section, the application shall be deemed approved.

(5) An applicant seeking to collocate network nodes may, at the applicant's discretion, file a consolidated application and receive permits for up to 30 network nodes. Provided however, the city's denial of any node within a single application shall not affect other nodes submitted in the same application. The city shall grant permits for any and all nodes in a single application that it does not deny, subject to the requirements of this section.

(B) Review of eligible facilities requests. Notwithstanding any other provision of this chapter, the city shall approve and may not deny applications for eligible facilities requests within 60 days according to the procedures established under 47 CFR 1.40001(c). (Ord. 930, passed 11-20-17)

§ 104.05 PUBLIC RIGHT-OF-WAY; MAXIMUM HEIGHT AND OTHER REQUIREMENTS.

(A) Maximum size of permitted use. Collocation of permitted use network nodes in the public right-of-way shall be subject to the size limitations specified in the Texas Local Government Code, § 284.03.

(B) Undergrounding provisions. A network provider shall comply with nondiscriminatory undergrounding requirements, including Code of Ordinances: Chapter 150: Building Regulations; Chapter 151: Electrical Code and Chapter 154: Plumbing Code, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval. This requirement or restriction shall not be interpreted to prohibit a network provider from replacing an existing structure.

(C) Historic areas and design districts. Subject to the permit application approval time frames in § 104.04, a network provider must obtain advance approval from the city before collocating new network nodes or installing new node support poles in any areas zoned or designated as a historic district or as a design district if the district has decorative poles. Such installations shall be subject to the design and aesthetic standards of such areas.

(D) Installation in municipal parks and residential areas. A network provider may not install a new node support pole in a public right-of-way without the city's discretionary, nondiscriminatory, written consent of the City Manager if the public right-of-way is located in a municipal park or is adjacent to a street or thoroughfare that is:

(1) Not more than 50 feet wide; and

(2) Adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions. A network provider shall comply with private deed restrictions and other private restrictions when installing network nodes in parks and residential areas.

(E) Zoning. A network provider seeking to construct, replace or modify a pole or node in the public right-of-way that exceeds the height or size limits contained in this section, shall be subject to applicable zoning requirements.
(Ord. 930, passed 11-20-17)

§ 104.06 EFFECT OF PERMIT.

(A) Authority granted. A permit from the city authorizes an applicant to undertake only certain activities in accordance with this chapter, and does not create a property right or grant authority to the applicant to impinge upon the rights of others who may already have an interest in the public right-of-way.

(B) Time of installation. A network provider shall begin the installation for which a permit is granted not later than six months after final approval and shall diligently pursue the installation to completion. Provided, however, the City may place a longer time limit on completion or grant reasonable extensions of time as requested by the network provider.

(C) Right to occupy. Once a network provider has collocated a network node or placed a node support pole pursuant to a permit, the provider shall be permitted to continue to maintain such collocation or such pole unless required to remove or relocate under the terms of this chapter.

(D) Interference with network nodes. City will not grant a permit to any person to install any network node or other wireless facility if the city knows or has reason to know that such person's use of such network node of other wireless facility may in any way adversely affect or interfere with the use and operation of an existing and operational network node for which the city has previously issued a permit.
(Ord. 930, passed 11-20-17)

§ 104.07 REMOVAL, RELOCATION OR MODIFICATION OF NETWORK NODES.

(A) Notice. Within 90 days following written notice from the city, a network provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any network node or node support pole within the public right-of-way whenever the city has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any city improvement in or upon, or the operations of the city in or upon, the public right-of-way.

(B) Emergency removal or relocation of facilities. The city retains the right and privilege to disconnect or move any network node located within the public right-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the city shall notify the network provider and allow the network provider an opportunity to move its own facilities prior to the city disconnecting or removing a facility and shall notify the network provider after disconnecting or removing a network node or node support pole.

(C) Abandonment of facilities. Upon abandonment of a network node or node support pole within the public right-of-way, the network provider shall notify the city within 90 days. Following receipt of such notice, the city may direct the network provider to remove all or any portion of a network node or node support pole if the city, or any of its departments, determines, subject to City Code, that such removal is necessary to protect public health, safety and welfare.
(Ord. 930, passed 11-20-17)

§ 104.08 PUBLIC RIGHT-OF-WAY USE RATE.

(A) Annual rate. Once a network provider has installed and made operational a network node in the public right-of-way, network provider shall pay to the city compensation for use of the public right-of-way in the amount of $250 annually per node in the city public right-of-way.

(B) Cease payment. A network provider is authorized to remove its facilities at any time from the public right-of-way and cease paying the city compensation for use of the public right-of-way following removal and notification to the City of such removal.
(Ord. 930, passed 11-20-17)

§ 104.09 SERVICE POLES IN THE PUBLIC RIGHT-OF-WAY.

A network provider shall be permitted to attach network nodes to city-owned service poles, consistent with applicable law and City Code and subject to the requirements specified herein.

(A) Permits. A network provider shall obtain a permit, pursuant to the terms of this chapter, prior to collocating network nodes on service poles.

(B) Make ready. Network provider shall be responsible for costs for make ready work on city service poles to which provider seeks to place a network node.

(C) Technical limitations. In the event the city determines, based upon technical grounds, that inadequate space exists on a service pole to accommodate the proposed network node, such pole may be replaced by network provider, at the network provider's expense, with a service pole with adequate space to accommodate the proposed network node.

(D) Facilities rearrangements. If another provider would have to rearrange or adjust any of its facilities to accommodate a new network node, the city shall use reasonable efforts to work with the affected providers to coordinate such activity. All make ready work shall comply with NESC, and other applicable codes. The applicant shall not be responsible for any third-party costs, including those of other network providers, to adjust existing attachments that are non-compliant with the NESC and other applicable codes at the time of the application.

(E) Service pole attachment fee. The rate to collocate a network node on a service pole in the public right-of-way shall be $20 per pole per year. Subject to the provisions of § 104.10, such compensation together with the application fee and the public right-of-way rate specified in § 104.08 shall be the sole compensation that the network provider shall be required to pay to the city.

(F) Cease payment. A network provider is authorized to remove its facilities at any time from a service pole in the public right-of-way and cease paying the attachment fee to the city upon notification to the city that the facilities have been removed.
(Ord. 930, passed 11-20-17)

§ 104.10 TRANSPORT FACILITIES.

Installation of transport facilities, including applicable compensation to the city for such facilities, shall be governed by the Texas Local Government Code, § 284.055.
(Ord. 930, passed 11-20-17)

§ 104.11 RATE ADJUSTMENT.

(A) The public right-of-way rate will adjust on October 1 of each year by an amount equal to one-half of the annual change, if any, in the consumer price index.

(B) The City Administrator will direct that written notice to be sent to each network provider at the address contained in their application of the new rate on or before October 15 of each year. It is the responsibility of a network provider to notify the city of any address change.
(Ord. 930, passed 11-20-17)

§ 104.12 DESIGN MANUAL.

(A) A network provider shall comply with the city's Design Manual, if any, in place on the date a permit application is filed in relation to work for which the city has approved a permit application. At the time of the submission of an application under this chapter, an applicant must provide an industry standard pole load analysis for each pole subject to the application indicating that that service pole to which the network node is to be attached will safely support the load; and

(B) All network node equipment placed on new and existing poles must be place more than eight feet above ground level.
(Ord. 930, passed 11-20-17)

TITLE XI: BUSINESS REGULATIONS

Chapter

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CHAPTER 110: AMBULANCE TRANSPORTATION COMPANIES

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GENERAL PROVISIONS

§ ll0.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"AMBULANCE." A motor vehicle constructed, reconstructed, or arranged for the purpose of transporting ill, sick, or injured persons.

"AMBULANCE CALL."\\The act of progressing with an ambulance to the scene of need and transporting a patient to this destination.

"ATTENDANT."\\A person who has the duty of caring for a sick, ill, or injured person who is being transported as a patient in an ambulance.

"CHAUFFEUR."\\Every individual who shall drive an ambulance, as herein defined and who has a chauffeur's license issued by the State Department of Public Safety.

"CITY."\\All areas within the territorial limits of the city.

"CODE OF CALLS."\\The nonemergency type of call, slow run, or convalescent call. No red lights or siren used.

"CODE THREE CALLS."\\The emergency type of call. This call is made with the use of red lights and sirens.

"COMMUNICABLE DISEASE."\\Any disease which may be readily transmissible from one person to another by contact with the infected person, or equipment exposed to that person directly or indirectly.

"DEPARTMENT."\\The Police Department of the city.

"EMERGENCY ACCIDENT CALLS."\\All calls involving injuries occurring from fire, gas, explosion, electric shock, knife wound, gunshot, drowning, poisoning, vehicle, train, boating, or aircraft accident, or similar disaster.

"HEALTH DEPARTMENT."\\The Wichita Falls City-County Health Unit.

"HEALTH OFFICER."\\The Director of the Wichita Falls City-County Health Unit, or his designated representative.

"LICENSE."\\A license of public convenience and necessity, as hereinafter described.

"OPERATOR."\\Any person engaged in business as the owner or proprietor of ambulances, as defined herein requiring a license hereunder.

"PERMIT."\\The operating permit which an operator is required to obtain hereunder for each and every motor vehicle operated under license authority.

"PERSON."\\Any individual, firm, association, partnership, corporation, or other group or combination acting as a unit.

"SANITATION AND DECONTAMINATION MEASURES."\\Those measures necessary to insure the health and well-being of all patients and ambulance personnel.

"SICK CALLS."\\All private calls made directly to an ambulance service company, except those defined in this section herein as emergency accident calls.
(Ord. 28l, passed 4-l8-67)

¢\ll0.02\\OPERATING REGULATIONS.

All license holders, operators, attendants, and chauffeurs, shall comply with the following regulations:

(A)\\Every license holder shall be required to provide immediate service, 24 hours daily, each and every day.

(B)\\Every ambulance shall adopt and use, after approval by the Health Officer, a distinctive uniform color scheme which shall not infringe upon any color scheme already in use by another ambulance operator; and each ambulance shall be identified in such a manner as clearly indicates that the vehicle is used for ambulance purposes only.
No other type advertising may be used on the vehicle.

(C)\\The ambulance operator's business name shall appear on each side and on the rear of the vehicle in letters of not less than three inches in height and l/2-inch in stroke on a metal portion of the body. No other advertising shall be used other than "Ambulance Company".

(D)\\Every call for ambulance service shall be answered promptly. Patients shall be loaded and transported without being subjected to unreasonable delays.

(E)\\Clean and sanitary bed linens shall be provided for each patient carried and shall be changed as soon as practicable after the discharge of a patient.

(F)\\Each ambulance shall have, in addition to its chauffeur, an attendant who holds a current certificate of Advanced Red Cross First Aid, or a U.S. Bureau of Mines certificate certified by the City-County Health Unit, and who shall remain in attendance to the patient being conveyed.

(G)\\Every operator shall provide each driver with a daily manifest upon which shall be recorded the time, place of origin, destination, and charges for each trip made.

(H)\\Every operator shall retain and preserve all daily manifests for at least six months, and these manifests shall be available for inspection by the Health Officer on request.

(I)\\Every licensee shall, at all times, have stationed at his central place of business, a person who shall be required to promptly answer all calls for service, promptly dispatch ambulances, and be generally responsible for the conduct of the business.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.03\\AMBULANCE EQUIPMENT.

License holders shall maintain in good operating condition, or ready for use, all of the following equipment which shall be modern and capable of rendering a satisfactory ambulance service:

(A)\\All motor vehicles used for the purpose of providing ambulance service hereunder shall be designed and constructed to transport ill, sick, or injured persons in comfort and safety, and shall be maintained in clean, sanitary, and in first-class mechanical condition at all times.

(B)\\All motor vehicles used for the purpose of providing ambulance service hereunder shall have as standard equipment:

(l)\\Parking brake;

(2)\\Front and rear bumper;

(3)\\Heater and defroster sufficient to heat interior of ambulances in cold weather;

(4)\\Air conditioner capable of cooling interior of ambulances in hot weather;

(5)\\Right- and left-side rear view mirrors and one in driver's compartment;

(6)\\A speedometer, exposed to view, and maintained in accurate operating condition;

(7)\\Power steering;

(8)\\Windshield wiper and washer;

(9)\\Tires with a minimum of 4/32-inch tread;

(l0)\\Tires shall have a six-ply or equivalent rating as a minimum;

(ll)\\Factory recommended shock absorbers; and

(l2)\\Adequate two-way radio equipment.

(C)\\The body of the ambulance shall have rear loading facilities with the patient compartment separated from the driver's compartment by a suitable partition with provision for communication between the driver and attendant; and there shall be at least two exists from the compartment where the patient is carried.

(D)\\Every ambulance used as an emergency vehicle shall have a hood-mounted rotating beacon of an approved design that is visible from the front of the vehicle for a distance of 500 feet.

(E)\\Each ambulance shall be equipped with, in usable and workable condition at all times:

(l)\\One ambulance cot and a collapsible stretcher, or two stretchers, one of which is collapsible, with adequate straps to secure the patient safely to the stretcher or ambulance cot, and adequate means of securing the stretcher or ambulance cot within the vehicle;

(2)\\Adequate wrist and ankle restraints;

(3)\\Adequate sanitary sheets, pillow cases, blankets, and towels for each stretcher or ambulance cot, and two pillows for each ambulance;

(4)\\Two oxygen "E" tanks or of greater capacity of which one tank must be full at all times and an approved oxygen unit incorporating aspiration, resuscitation, and inhalation features, consisting of a range of sizes of face type;

(5)\\Hinged halfspring splints (for fractures of the thigh) with web strap for ankle hitch;

(6)\\Two or more padded boards three inches wide and three feet in length, and two or more similar padded boards 4-l/2-feet in length of material comparable with four-inch plywood (for coaptation splinting of fracture of leg or thigh);

(7)\\Two or more padded 15-inch by three-inch beaverboards (for fractures of forearm);

(8)\\Two sandbags about four inches in width, two inches in thickness, and l2 inches in length;

(9)\\Bag type resuscitation equipment, such as "Ambu Bags";

(l0)\\Air splints for fractures of the extremities;

(ll)\\Two each surgi-lift sheets; and

(l2)\\Emesis basin.

(F)\\Each ambulance shall carry an attendant's bag which shall include large made dressings, sterile gauze pads, three- and six-inch gauze or muslin bandages, three- and six-inch cotton elastic bandages, adhesive tape (cylinder cut one inch, two inch, three inch), tourniquets, tongue blades, three taped together and padded for mouth gag; bandage shears, triangular bandages or slings; safety pins (large size); oropharyngealairways; mouth to mouth, two-way resuscitation airways, adult and children's sizes.

(G)\\All mechanical, safety, and special equipment, shall be subject to inspection at any time by authorized officials.

(H)\\No ambulance that has been substantially damaged or altered shall be again placed in service until it has been reinspected.

(I)\\All ambulances shall be subject to the same status ordinances, and rules and regulations relating to safety and operating equipment applicable to other motor vehicles in the city.

(J)\\The City-County Health Unit shall be responsible for certifying the sanitation of vehicles and shall inspect and certify that the vehicles are equipped in accordance with this section. (Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.04\\RADIO DISPATCHER PROCEDURE.

(A)\\Any ambulance operator desiring to respond to emergency call Code Three as defined in ¢\ll0.01, is hereby required to submit the name, company, location, and telephone number to the police dispatcher in order to receive calls. This would not pertain to Code One calls.

(B)\\When the dispatcher receives an emergency call for any ambulance, he shall authorize and dispatch an approved ambulance to make the call.

(C)\\In case an ambulance service operator receives a private sick call as defined in ¢\ll0.01 hereof which is of an emergency nature and desires to answer such call as an emergency call under Code Three as defined in ¢\ll0.0l, the operator shall report to the police dispatcher such call. The police dispatcher shall then clear such ambulance service to answer such private sick calls. (Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.05\\USE OF EMERGENCY WARNING DEVICES.

(A)\\An ambulance may respond, after receiving a call from a private citizen, or from the city, state, or county dispatcher, to a call using red lights and siren. If it is a private call, the police dispatcher must be notified of the call and the intent to use the above emergency warning equipment on the city streets by the licensee receiving the call.

(B)\\After an ambulance has responded to a call and arrived at the point of pickup, it shall be unlawful for the ambulance to proceed to the hospital or other destination with the use of such emergency warning equipment except in the case of dire emergency. All dire emergencies must come under one or more of the following classifications:

(l)\\Acute respiratory distress, impaired breathing, airway blockage.

(2)\\Bleeding beyond control.

(3)\\Poisoning.

(4)\\Immediate and pending childbirth.

(5)\\Orders or recommendation of a licensed physician.

(C)\\Any time an ambulance is used to transport or transports a patient, or patients, with the use of red lights and siren a written report, giving full details of the circumstances, along with the name of the patient, his address, his condition, and the name of the doctor who examined the patient, and the name and license number of the person driving the ambulance must be filed with the Health Officer within 24 hours following the conclusion of the call.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.06\\DEAD ON ARRIVAL PROCEDURE.

The following procedure shall be followed by all approved ambulances when the subject of the emergency call is dead on the arrival of the ambulance:

(A)\\Dead on arrival, as used herein shall mean a determination of death by a medical examiner or medical doctor. Where there is not any instruction given by the next of kin, or other responsible person related to the deceased, as to where the body shall be delivered, the ambulance driver shall deliver it to a hospital until a medical examiner or licensed medical doctor formally pronounces the subject dead. The body shall then be taken to the funeral home or mortuary next in line on the rotating list. It will be the responsibility of the funeral home to register with the City Clerk and the Police Department to have their company on the rotating list.

(B)\\Any company or individual providing ambulance service under the provisions of this chapter or its employees shall have no discretion over where bodies shall be delivered, except in accordance with the terms of this chapter, and they shall not recommend or suggest in any manner, direct or indirect, as to where the bodies shall be delivered.

(C)\\All operators shall be furnished with a copy of this chapter and shall keep their chauffeurs and attendants properly informed of same.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.07\\REGISTERS AND RECORDS TO BE KEPT.

(A)\\The Police Department shall keep a register containing the names and addresses of all operators, the description of their motor vehicles, with their license numbers and a complete record of all inspections of such vehicles and equipment. The Department shall also maintain a complete register of all chauffeurs and attendants, as defined hereunder, together with their registration numbers, and a complete record of all suspensions and revocations of certificates, permits, or chauffeurs' and attendants' registration.

(B)\\The City-County Health Unit shall be responsible for maintaining records pertaining to health inspections of vehicles and equipment covered under this chapter.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.08\\MAINTAINING CENTRAL PLACE OF BUSINESS.

Each operator shall maintain a central place of business, at which place he shall provide a properly listed telephone for receiving all calls for ambulance service, and at which central place of business he shall keep such business records and daily manifests set forth herein, available for inspection or audit as deemed advisable by the Health Officer. It shall also be the responsibility of every operator hereunder to keep on file with the Police Department the business address and telephone number whereby the operator may be reached at all times.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.09\\REMOVAL FROM APPROVED LIST.

The City-County Health Unit shall conduct equipment inspections of all approved services at least every six months, or as often as in their judgement is warranted to maintain adequate standards and shall have the right to remove any ambulance service from the approved list for failure to maintain adequate mechanical standards of equipment, or for failure to comply with any of the provisions of this chapter.
(Ord. 28l, passed 4-l8-67)

¢\ll0.l0\\AMBULANCE OPERATORS TO FILE SCHEDULE OF RATES; POSTING OF RATES.

(A)\\Every person authorized hereunder to operate one or more ambulances shall file with the City Clerk a schedule of the rates which will be charged for the transportation of persons in ambulances, and notice of any change in such rates shall be given the Health Officer in writing at least 30 days prior to the effective date of such change.

(B)\\Every ambulance shall have posted in a conspicuous place, readily visible to the occupants a statement showing the rates to be charged. Such rates, as posted, shall be the same as those in the schedules filed pursuant to division (A) of this section.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

LICENSES AND PERMITS

¢\ll0.20\\LICENSE AND PERMIT REQUIRED.

It shall be unlawful and an offense for any person to use, drive, or operate any ambulance as defined in ¢\ll0.0l, within the territorial limits of the city without first obtaining a license of public convenience and necessity and a permit issued under and pursuant to the provisions of the City of Wichita Falls Ordinance 23l0. This shall not apply to an ambulance picking up a patient on sick calls only in the city limits, and delivering that patient to a destination outside the city limits, nor shall it apply to an ambulance picking up a patient outside the city limits and delivering the patient to a destination inside the city limits.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.2l\\LICENSES AND PERMITS NOT TRANSFERABLE.

No license or permit issued hereunder shall be assignable or transferable by the person to whom issued. Any transfer or assignment of existing licenses and permits shall be accompanied only upon assent and approval of the Health Officer in the same manner and subject to the same application, investigation, fees, and public hearings as original applications for licenses. Any transfer of shares of stock or interest of any person or operator so as to cause a change in the directors, officers, shareholders, or managers of such person or operator shall be deemed a transfer or assignment as contemplated above, and subject to the same rules and regulations as any other transfer or assignment.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.22\\LICENSE HOLDER'S RECORDS AND REPORTS.

Every license holder hereunder shall keep accurate records of receipts from operations, and such other operating information as may be required by the Health Officer. Every license holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the City Clerk, the Health Officer, or their authorized agents.
(Ord. 28l, passed 4-l8-67) Penalty, see¢\ll0.99

¢\ll0.23\\INSURANCE POLICIES REQUIRED.

(A)\\(l)\\Every operator shall carry general and auto liability and property damage insurance with solvent and responsible insurers authorized to transact business in the state, to secure payment for any loss or damage resulting from any occurrence arising out of or caused by the operation or use of any of the operator's motor vehicles. Such insurer shall be rated by Best's Insurance Guide, published by the Alfred M. Best Company, New York, latest edition. Such insurer shall have a minimum general policy holder rating of "A" and a minimum financial rating of "AAAA."

(2)\\Each vehicle shall be insured for the sum of at least $l00,000 for injuries to, or death of any one person arising out of any one accident and the sum of at least $300,000 for injuries to, or death of more than one person in any one accident, and for the sum of at least $50,000 for damages to property arising from any one accident.

(3)\\Every insurance policy or contract for such insurance shall provide for the operator and person insured, or any person driving in the insured vehicle. Such insurance shall be obtained and certificates of insurance shall be filed with the City Clerk before a license or permit shall be issued.

(B)\\All such certificates of insurance shall provide for a 30-day cancellation notice to the City Clerk.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.24\\REVOCATION, ALTERATION, OR SUSPENSION.

The revocation, alteration, or suspension of the license and permit issued pursuant to Wichita Falls City Ordinance 23l0 insofar as they pertain to the city shall be governed by the same provisions as set out in Wichita Falls City Ordinance 23l0.
(Ord. 28l, passed 4-l8-67)

¢\ll0.25\\APPEALS.

The applicant or the protestants shall have the right to appeal any order relating to the issuance, denial, revocation, alteration, or suspension of the license or permit to the Board of Commissioners by filing with the City Clerk within ten days from the date of the order a written notice of appeal, which notice shall set forth the grounds for the appeal. The Board of Commissioners, after a hearing is had in summary manner, may sustain or reverse the order.
(Ord. 28l, passed 4-l8-67)

CHAUFFEURS AND ATTENDANTS

¢\ll0.35\\REGISTRATION REQUIRED.

It is hereby declared unlawful for any person to drive, manage, or control any ambulance on any street in the city or for any person to attend or render first aid to a passenger in such ambulance without first having been examined and registered as a public chauffeur or an attendant, as the case may be.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.36\\APPLICATION; QUALIFICATIONS.

(A)\\Application for registration as a chauffeur or attendant shall be made in writing to the City Clerk upon forms provided by him therefor. The application shall contain the full name and street address of the applicant and such other information as may be required by the City Clerk to properly identify the applicant and disclose any information as to his character, reputation, and physical qualifications, past employment, and conduct deemed relevant to the question of the qualification of the applicant for registration as a chauffeur or attendant.

(l)\\All applicants for registration as a chauffeur or attendant must meet all the qualifications provided in division (B) of this section.

(2)\\Application for registration as chauffeur or attendant shall be verified under oath and shall contain the following information:

(a)\\The name, age, sex, weight, height, color of eyes and hair of the applicant, his residence address, and length of residence in city.

(b)\\Whether or not the applicant has heretofore been licensed or registered as an ambulance driver or attendant, and if so, when any by what state and whether such license or registration has been revoked or suspended, and if so, the date of and reason for such revocation or suspension. The name of the person by whom applicant is employed.

(c)\\The number of times convicted of moving traffic violations.

(d)\\The experience the applicant has had in driving motor vehicles.

(e)\\Whether or not the applicant has ever been convicted of a felony or misdemeanor, giving particulars of each such conviction.

(f)\\Names of three reputable persons who know the applicant and are acquainted with his general reputation and character. Such persons given as references must be residents of the city.

(g)\\Such application shall be made in triplicate. The Chief of Police shall cause an investigation to be made of the facts set forth in the application, and shall not approve the issuance of a registration certificate to any person whose general reputation for integrity or responsibility, or whose previous record as a law violator is such as to render the applicant unfit for such application. Every applicant for registration as a driver must have a valid chauffeur's license. The Chief of Police shall also cause each applicant for a driver's registration to be examined as to his knowledge of the provisions of this division and the traffic regulations and geography of the city, and if the applicant fails to show a reasonable knowledge of such matters, he shall be refused a registration certificate.

(B)\\Every applicant for commercial chauffeur must be the holder of a chauffeur's license issued by the state. Every applicant must be able to speak, read, and write the English language. Every applicant must furnish a written certificate from a medical doctor or osteopathic physician that he is of sound physique, possesses good eyesight, is not subject to epilepsy, vertigo, heart trouble, or other infirmity of body or mind, and not addicted to the use of drugs or intoxicating liquors, so as to render him unfit to perform the duties of a chauffeur or attendant.

(l)\\Every applicant must furnish satisfactory proof that he is a person of good moral character.

(2)\\Every applicant must furnish proof that he holds a current certificate in Advanced Red Cross or U.S. Bureau of Mines First Aid, certified by the City-County Health Unit.

(3)\\Every applicant for chauffeur must be at least 2l years of age.

(4)\\Every applicant for attendant must be at least l8 years of age.
(Ord. 28l, passed 4-l8-67)

¢\ll0.37\\CONVICTION OF CRIME BY APPLICANT.

No person shall be registered as a chauffeur or attendant at any time after conviction of a felony, or any offense involving moral turpitude, any offense involving the use of or traffic in narcotic drugs, or any offense involving the use of a deadly weapon.
(Ord. 28l, passed 4-l8-67)

¢\ll0.38\\INVESTIGATION AND EXAMINATION OF APPLICANTS.

The character, reputation, and pertinent knowledge of each applicant for registration as a chauffeur or attendant, shall be investigated in accordance with the provisions of ¢\ll0.36(A)(l)(g), and a report of such investigation containing any facts relevant to the character and reputation of the applicant shall be placed on file in the office of the Police Department. The fingerprints and photographs of each applicant shall be obtained and placed on file in the office of the Police Department.
(Ord. 28l, passed 4-l8-67)

¢\ll0.39\\GRANTING OR REFUSAL OF LICENSE; FEE.

(A)\\If the applicant is found to be a fit and proper person to operate and drive an ambulance within the city by the Chief of Police according to the standards set forth in this subchapter, and if he shall so certify to the City Clerk, the City Clerk shall issue to the applicant a driver's license and registration, and a driver's identification card. The license identification card shall be of a form prescribed by the City Clerk and shall contain a picture of the driver affixed in such a manner that another picture cannot be substituted therefor without detection, the driver's name, license number, card number, and the expiration date of the license. These cards shall have a space on the reverse side for entering violations and fines. The color of the license shall be changed each license year. Each license issued hereunder shall expire on December 3l next succeeding its issuance. No additional application shall be required for a renewal license if such renewal license is applied for by January l following.

(B)\\In the event any applicant be disapproved by the Chief of Police because it is found that such applicant is unfit, by reason of his previous record as a law violator, or by reason of his general reputation for integrity or responsibility, the applicant shall not be eligible to apply for a driver's registration and

license until the expiration of six months from the date of such disapproval. If the Police Department shall be satisfied that the applicant meets the required qualifications, he shall be granted a registration and license. Every applicant for registration as a chauffeur or attendant shall pay an annual fee of $5 for such registration for the first year.
(Ord. 28l, passed 4-l8-67)

¢\ll0.40\\RENEWAL OF REGISTRATION; FEE.

A chauffeur or attendant holding a registration card in good standing and whose status and conditions have not changed since obtaining such registration, shall be entitled to a renewal thereof upon payment of the renewal registration fee of $5.
(Ord. 28l, passed 4-l8-67)

¢\ll0.4l\\DISPLAY OF REGISTRATION.

It shall be the duty and responsibility of every chauffeur and attendant registered hereunder, to display his registration card in his vehicle in such a manner as to be readily visible at all times. No other permits shall be visible.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.42\\REVOCATION OF REGISTRATION.

(A)\\If any chauffeur or attendant shall violate any traffic laws or regulations or any order, rule, or regulation of the Police Department pertaining to the administration or enforcement of this chapter, or any other ordinance concerning motor vehicles as defined herein, the Department may suspend the chauffeur's or attendant's registration privilege for a period not to exceed 90 days. If any person has obtained a registration card by application in which any material was omitted or stated falsely, or if he shall become unfit to operate a motor vehicle, or attend patients as defined herein because of any infirmity of body or mind, or because of addiction to the use of any drugs or intoxicating liquors or shall violate any criminal law which would disqualify any applicant for registration, the Department may recommend to the Health Officer that the registration privilege be revoked, and the Health Officer may, at his own discretion, after notice and opportunity to be heard has been accorded the chauffeur or attendant, revoke such registration privilege. A driver's license may be revoked for any of the following reasons:

(l)\\Upon conviction of violation of any federal or state law involving moral turpitude.

(2)\\For operating an ambulance while under the influence of intoxicating liquor.

(3)\\For leaving the scene of an accident in which the ambulance is involved.

(4)\\For failure to make a full report of an accident to the Police Department within 24 hours of the time of occurrence.

(5)\\For permitting any other person to use his license.

(6)\\For obliterating or erasing any official entry on his license identification card.

(7)\\Upon conviction of a third traffic violation while operating an ambulance during any one license year.

(8)\\Misrepresentation of any material facts by a driver in his application for a license.

(9)\\For not operating or driving an ambulance in the best interest of the general public.

(B)\\An ambulance driver's license may be suspended for a period of not to exceed 90 days for any of the following reasons:

(l)\\First and second offenses of any traffic violation.

(2)\\Violation of any ordinances of the city, which violation reflects unfavorably on the fitness of the licensee to offer public service.

(C)\\Whenever an ambulance driver's license is revoked, the Health Officer shall take up the ambulance driver's license and license identification card and forward same to the City Clerk together with a full report of reasons of revocation.

(D)\\No person whose license has been revoked shall be eligible to receive a new license until one year from the date of such revocation.

(E)\\Whenever an ambulance driver's license is suspended the Health Officer shall take up the license identification card and forward same to the City Clerk, together with the reasons for such suspension and the term thereof.

(F)\\The provisions of this section are supplementary to penalties provided by other sections of this chapter.

(G)\\Before the revocation or suspension of an ambulance driver's license, as provided in this section, a written notice shall be sent to the holder of the license involved by having same delivered to the holder in person, or by mailing same to the business address of such holder on file in the office of the City Clerk. Such notice shall be sent at least five days prior to the time a hearing is to be held and shall advise the holder of the license involved as to the nature of the reason for suspension or revocation and advise that such holder shall have the opportunity to

show why the license should not be suspended or revoked. The Health Officer at the time and place stated in such notice, shall hold a

hearing to determine whether the license should be suspended or revoked for any of the reasons provided in this chapter.
(Ord. 28l, passed 4-l8-67)

¢\ll0.43\\CERTAIN ACTS PROHIBITED.

No chauffeur or attendant registered and licensed hereunder shall:

(A)\\Refuse to promptly transport or attend any sick or injured person after responding to a call, without good cause.

(B)\\Demand or receive compensation other than that established and prescribed herein, or fail to give a receipt for moneys received.

(C)\\Give or allow rebate, commission, discount, or any reduced rate not provided in the established rate.

(D)\\Induce or seek to induce a change in the destination to or from a hospital or other place specified by the person engaging the ambulance.

(E)\\Induce or seek to induce any person engaging an ambulance to patronize or retain the services of any hospital, convalescent home, mortuary, cemetery, attorney, private accident investigator, nurse, or any person that could benefit financially as a result of the inducement.

(F)\\Fail to keep his person clean and presentable when on duty.

(G)\\Release his patient from his care until he is assured that some responsible person is available to receive such patient.

(H)\\Use a siren or flashing red light, unless on an emergency call as defined in ¢\ll0.0l.

(I)\\Disobey the lawful orders of a police officer at the scene of an accident, or other similar emergency.

(J)\\Smoke while driving an ambulance when occupied by a patient or while being the attendant for a patient, as attendant is defined in¢ \ll0.0l.

(K)\\Exceed the legally posted speed limit by more than ten miles per hour when on an emergency call as defined in ¢\ll0.0l.

(L)\\Fail to slow to ten miles per hour, or less, at any traffic signal showing red or at any stop sign while on an emergency call as defined in ¢\ll0.0l.
(Ord. 28l, passed 4-l8-67) Penalty, see ¢\ll0.99

¢\ll0.99\\PENALTY.

Any person who shall violate any of the provisions of this chapter shall be guilty of an offense and upon conviction thereof shall be punished by a fine not to exceed the sum of $200. (Ord. 28l, passed 4-l8-67)

CHAPTER lll:\\AMUSEMENTS

Section

Carnivals, Circuses, and Shows

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CARNIVALS, CIRCUSES, AND SHOWS

¢\lll.0l\\PERMIT REQUIRED.

(A)\\It shall be unlawful to hereafter hold, sponsor, operate, or run a carnival in the city limits, unless a permit to hold such carnival is first obtained from the city in accordance with this subchapter.

(B)\\Each person aiding or abetting in the holding of such carnival or its subsidiary shows, concessions, amusements, and businesses shall be equally guilty of a violation of this

subchapter, when that carnival, circus, or temporary show operates or runs without such permit.
(Ord. 256, passed 8-l4-6l) Penalty, see ¢\lll.99

¢\lll.02\\APPLICATION; ISSUANCE OF PERMIT.

A permit shall be issued by order of the City Manager to hold such carnival or circus only when a proper application in writing is made therefor. Such application shall state in detail the different component parts of the carnival including all concessions, shows, amusements, and businesses; the proposed location of the carnival; the time it is to run; the number of persons regularly traveling therewith, if any; and the number of local persons connected therewith; and shall give a complete and full plan of the proposed carnival.
(Ord. 256, passed 8-l4-6l)

¢\lll.03\\PERMIT FEE.

The applicant for a permit, if the City Manager shall determine that a permit shall be issued, shall then pay a license fee of $50 together with $5 per extra police officer, for the number of officers that the City Manager shall determine shall be necessary per day as set forth in ¢\lll.05, for so many days that the carnival is issued a permit to run. The City Clerk shall issue the permit specifying the length of time and the location. The applicant shall also be subject to any and all additional inspection fees as may be provided by existing ordinances governing such.
(Ord. 256, passed 8-l4-6l)

¢\lll.04\\APPROVAL OR DISAPPROVAL OF PERMIT.

Any application for a permit may be referred by the City Manager to the Board of Commissioners for their approval or disapproval, and such action by the Board of Commissioners shall be final.
(Ord. 256, passed 8-l4-6l)

¢\lll.05\\POLICE CONTROL AND SUPERVISION.

(A)\\If the proposed carnival appears to be entirely composed of lawful amusements and lawful enterprises, the City Manager shall determine the number of extra police necessary to properly superintend such carnival and regulate the anticipated crowds and carnival. The City Manager shall instruct the City Clerk as to how many extra officers shall be needed and whether to issue such permits.

(B)\\The Chief of Police shall have supervision of the policing of those carnivals, circuses, and shows.
(Ord. 256, passed 8-l4-6l)

¢\lll.06\\STANDARDS TO BE APPROVED.

All electrical wiring, eating establishments, and other activities where the public health, safety, and interest is

involved, must meet the approval of the Chief of Police and the City Inspector.
(Ord. 256, passed 8-l4-6l)

¢\lll.07\\CERTAIN ACTS PROHIBITED; REVOCATION.

If the proposed carnival or show consists in whole or in part of any unlawful games, the permit shall be refused. If such carnival is issued a permit and it conducts itself in an unlawful manner in whole or in part, its permit may be revoked by the City Manager and fees paid shall be forfeited.
(Ord. 256, passed 8-l4-6l)

¢\lll.08\\LOCATION RESTRICTION.

It shall be unlawful for any carnival, circus, or temporary show, to operate in whole or in part within 200 feet of any private residence, church, school, or after its permit expires or is revoked for cause. All persons assisting in such operation shall be deemed guilty of violating this subchapter.
(Ord. 256, passed 8-l4-6l) Penalty, see ¢\lll.99

¢\lll.09\\EXEMPTIONS.

Fairs or local shows, composed of local people for purely local charitable purposes without profit may be exempt from the provisions of this subchapter as applicable to fees charged for permits or licenses upon approval of the Board of Commissioners, except the Board of Commissioners may levy another fee commensurate with any additional expense placed upon the operation of such local fairs or shows.
(Ord. 256, passed 8-l4-6l)

PUBLIC DANCE HALLS

¢\lll.25\\APPLICATION FOR PUBLIC DANCING IN CONNECTION WITH A BUSINESS.

Applications to conduct public dances as a business or as an incident to a restaurant, dance hall, or other business, except as a dancing school, shall be made on forms provided by the City Clerk, shall be filed in the office of the City Clerk, accompanied by an annual fee of $250, and shall include:

(A)\\A complete identification of the applicant and all persons, partners, or corporate membership directly or indirectly interested in the permit.

(B)\\The name, residence, and business address of the manager or person in charge.

(C)\\The address, the exact nature of the business, the name under which it is to be operated, and the hours of operation (l2:00 p.m. through l2:00 a.m.).

(D)\\The square foot area to be used and the seating capacity.

(E)\\Whether or not the applicant or anyone having a beneficial interest in the permit, directly or indirectly, has had a permit for the same or a similar business anywhere and if that permit has been suspended or revoked, the circumstances thereof.
(Ord. 428, passed l-20-86)

¢\lll.26\\PERMIT NONTRANSFERABLE.

The permit shall be issued to one person, association, firm, or corporation and is nontransferable.
(Ord. 428, passed l-20-86) Penalty, see ¢\lll.99

¢\lll.27\\INVESTIGATION OF APPLICANT.

It shall be the duty of the Chief of Police to make or cause to be made an investigation into the character of each applicant and report the results of such investigations to the Board of Commissioners at their next regular meeting. The Board of Commissioners shall act on the application and issue a license if they deem it advisable.
(Ord. 428, passed l-20-86)

¢\lll.28\\PREMISES.

No license shall be issued until it is found that the premises comply and conform to all ordinances and regulations of the city and the county. No public dance hall shall be opened in a residential area.
(Ord. 428, passed l-20-86) Penalty, see ¢\lll.99

¢\lll.29\\FORFEITURE OR REVOCATION OF LICENSE.

The license of any aforementioned business shall be forfeited or revoked by the Board of Commissioners for disorderly or immoral conduct on the premises or for the violation of any of the regulations, ordinances, or laws applicable to public places or public dancing in connection with a business.
(Ord. 428, passed l-20-86)

¢\lll.30\\GAMBLING PROHIBITED.

It shall be unlawful for any officer, director, stockholder, owner, or manager thereof licensed pursuant to the provisions of this subchapter to violate any of the provisions of the gambling laws of

the state, or knowingly permit the violation thereof on any premises subject to the control of that dance or public dance hall.
(Ord. 428, passed l-20-86) Penalty, see ¢\lll.99

PRIVATE CLUBS

¢\lll.40\\DEFINITIONS.

For the purpose of this subchapter the following definitions

shall apply unless the context clearly indicates or requires a different meaning.

"PRIVATE CLUB."\\Any association, person, firm, or corporation, key club, bottle club, locker club, pool club, or any other kind of club or association which excludes the general public from its premises or places of meeting, congregation, or operation, or which exercises control over any other place where persons are permitted to drink alcoholic beverages other than in a private home.

"STOCKHOLDERS."\\Those "STOCKHOLDERS" who receive, or whose rights as a "STOCKHOLDER" are ordinarily intended to cause him to receive a financial return on his stock.
(Ord. 374, passed l2-l8-79)

¢\lll.4l\\CLASSIFICATION.

For the purpose of a permit and regulations, private clubs shall be divided into three classes:

(A)\\Class A private clubs shall include those clubs, associations, or corporations, falling within the general term "PRIVATE CLUB" as defined in ¢\lll.40, which are charitable, eleemosynary, educational, recreational, and which are not operated for profit, and which hold and maintain an income tax exempt status under the regulations and rulings of the Internal Revenue Service of the United States.

(B)\\Class B shall include restaurants open to the general public but maintaining a private room opening into the restaurant, which private room is used as a "PRIVATE CLUB" as defined in ¢\lll.40.

(C)\\Class C shall include any other "PRIVATE CLUB" as defined in¢ \lll.40.
(Ord. 374, passed l2-l8-79)

¢\lll.42\\COMPLIANCE.

Every private club licensed or any applicant for a private club permit pursuant to this subchapter shall be subject to all other ordinances of the city, including but not limited to the applicable provisions of the building code, fire prevention code, health regulations, food handling ordinances, restaurant ordinances, and the provisions of the Southern Standard Building Code as amended.

(Ord. 374, passed l2-l8-79)

¢\lll.43\\PERMIT REQUIRED.

It shall be unlawful for any association, person, firm, or corporation to maintain or operate any private club without first paying in advance to the City Clerk the permit fee hereinafter prescribed in ¢\lll.44, and making application for a permit therefor

on forms provided by the Clerk, and receiving a permit from the City Clerk to which application shall be attached a copy of any and all documents applying for a private club permit filed or to be filed with the State Alcoholic Beverage Commission. Application for such permit shall be on file with the City Clerk for l4 days prior to the regular monthly meetings of the Board of Commissioners.
(Ord. 374, passed l2-l8-79) Penalty, see ¢\lll.99

¢\lll.44\\ISSUANCE OF PERMIT; FEE.

The City Clerk shall cause the Chief of Police, the Building Official, Fire Marshall, and the Health Officer to make due investigation of the application and upon being notified by them that all of the applicable ordinances of the city have been complied with, shall issue the permit. The permit fee for such permit shall be $250.
(Ord. 374, passed l2-l8-79)

¢\lll.45\\PERMIT NONTRANSFERABLE.

The permit shall be issued to one person, association, firm, or corporation and is nontransferrable.
(Ord. 374, passed l2-l8-79) Penalty, see ¢\lll.99

¢\lll.46\\ARTICLES OF INCORPORATION TO BE FILED.

Any applicant for a permit for a private club shall file with the City Clerk true copies in duplicate of the articles of incorporation and bylaws, if the applicant is a corporation; true copies of any articles of association and bylaws, if the applicant is an association; and a list of the officers, directors, owners, and managers of the club and stockholders.
(Ord. 374, passed l2-l8-79)

¢\lll.47\\SITE RESTRICTIONS; EXCEPTIONS.

(A)\\The following restrictions shall be:

(l)\\The club site and parking site shall be on same or adjacent properties.

(2)\\No building shall be located within 30 feet of any other property line.

(3)\\The site may have one and not more than one permanent

dwelling unit which may be detached, and which shall be used only as the residence of an employee or owner of the private club.

(4)\\The maximum number of people allowed shall not exceed one person per l5 net square feet of floor space, exclusive of working and storage area, as per the Southern Standard Building Code Chapter ll adopted by the city by Ordinance 272, passed July l9, l965.

(5)\\Off-street parking space. An area of off-street (on

premise) parking shall be provided by the owner. The number of parking spaces shall be determined as follows: there shall be one parking space per each four persons allowed in the building as determined by division (A) of this section. A plat of the premises showing floor space and the proposed parking area shall be included in the application for a permit. The lot on which the structure is located and parking lot or lots for all vehicles shall be enclosed by a solid wall or fence at least six feet high except on any side facing any street.

(B)\\The limitations of this section shall not apply to a private club which is in operation at the time of the passage of this subchapter.
(Ord. 374, passed l2-l8-79) Penalty, see ¢\lll.99

¢\lll.48\\ENTRY AND INSPECTION POWERS.

The right of entry and inspection of any premises subject to the control of any private club by any officer or agent of any department of the city charged with enforcement of the provisions hereof shall be a condition on which every permit shall be issued, and the application for, and the acceptance of any permit hereunder shall conclusively be deemed to be consent of the applicant and permittee to such entry and inspection.
(Ord. 374, passed l2-l8-79)

¢\lll.49\\ALCOHOLIC BEVERAGES; GAMBLING.

It shall be unlawful for any private club or any officer, director, stockholder, owner, or manager thereof licensed pursuant to the provisions of this subchapter to violate any of the provisions of the state alcoholic beverage law or any of the gambling laws of the state, or knowingly permit the violation thereof on any premises subject to the control of that private club.
(Ord. 374, passed l2-l8-79) Penalty, see ¢\lll.99

¢\lll.99\\PENALTY.

(A)\\Any person, firm, or corporation violating any provisions of this chapter for which another penalty has not been provided, shall be deemed to be guilty of a misdemeanor and shall upon conviction be

punished by a fine not to exceed $200 for each offense. A separate offense shall be deemed committed on each date during or on which a violation occurs or continues.

(B)\\Any person, partnership, or corporation violating any provisions of ¢¢\lll.25 through lll.30 by operating a business pertaining to public dancing without obtaining a license, shall be guilty of a misdemeanor and shall upon conviction be subject to a fine of $50 for each day these sections are violated by failure to procure a license. Any person, partnership, or corporation who

shall violate any other provision of ¢¢\lll.25 through lll.30 shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed $200 for each offense. (Ord. 374, passed l2-l8-79)

CHAPTER ll2:\\PEDDLERS AND SOLICITORS

Section

General Provisions

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ll2.02\\Police power of state and city
ll2.03\\Hours of operation restricted
ll2.04\\Certain peddling and soliciting prohibited in fire limits
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Permit Procedure

ll2.l5\\Permit Board
ll2.l6\\Permit required; fee
ll2.l7\\Itinerant merchant or vendor; permit required
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ll2.23\\Permit to be carried upon person while so engaged
ll2.24\\Revocation
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GENERAL PROVISIONS

¢\ll2.0l\\DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ITINERANT MERCHANT."\\Any person, firm, or corporation, whether as owner, agent, consignee, or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares, merchandise, or personal property of any nature whatsoever within the city; and who in furtherance of such purpose, uses or occupies any building, structure, motor vehicle, or public room in a hotel or motel, for the exhibition and sale of such goods, wares, merchandise, or other personal property, or for the purpose of securing orders for future delivery. However, such definition shall not include any individual who is licensed by the state as an auctioneer or associate auctioneer and who complies with all applicable provisions of Article 8700, Revised Civil States of Texas.

"PEDDLER."\\Any individual, whether a resident of the city or not, traveling either by foot or by automobile or other type of

conveyance, from place to place, from house to house, or from street to street, carrying or transporting goods, wares, merchandise, or personal property of any nature whatsoever (including tickets and coupon books), offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from an automobile or any other type of conveyance.

"SOLICITOR."\\Any individual, whether a resident of the city or not, traveling either by foot or by automobile or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, merchandise, or personal property of any nature whatsoever (including tickets for shows and books of coupons which may be traded in for goods or services) for future delivery, or for services to be furnished or performed in the future, whether or not he is collecting advance payments on such sales.
(Ord. 436, passed - -87)

¢\ll2.02\\POLICE POWER OF STATE AND CITY.

This chapter 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 the citizens thereof, and all of the provisions of this chapter shall be construed for the accomplishment of that purpose.
(Ord. 436, passed - -87)

¢\ll2.03\\HOURS OF OPERATION RESTRICTED.

Even with a permit granted to a person by the Permit Board, it shall still be unlawful for any person to solicit sales at all private residences from 5:30 p.m. to 9:00 a.m., except at the request of the resident of such private residence or by appointment with such resident of such private residence.
(Ord. 436, passed - -87) Penalty, see ¢\ll2.99

¢\ll2.04\\CERTAIN PEDDLING AND SOLICITING PROHIBITED IN FIRE LIMITS.

(A)\\It shall be unlawful for solicitors and peddlers to carry on their business on the streets, sidewalks, and other public places in the fire limits.

(B)\\Nothing in this section shall prohibit the sale of newspaper or the sale or giving away of religious literatures in the fire limits.

(C)\\Standing or stopping on streets limited. It shall be unlawful for any peddler, who is selling or offering for sale goods, wares, and merchandise from an automobile or other type of vehicle, to take a stand, or stop, or stand his vehicle on any public street or public right-of-way within the city for a longer period of time than ten minutes.
(Ord. 436, passed - -87) Penalty, see ¢\ll2.99

¢\ll2.05\\ENTERING UPON PROPERTY WITHOUT INVITATION PROHIBITED.

The issuance of a permit under this chapter does not authorize the holder to go on private property for the purpose of engaging in his business, when he has notice that his entrance is forbidden or he has received notice to depart.
(Ord. 436, passed - -87) Penalty, see ¢\ll2.99

¢\ll2.06\\EXEMPTIONS.

(A)\\The provisions of this chapter shall not apply to the sale or soliciting of orders for the sale of vegetables, poultry, eggs, and other farm and garden products which have been raised or produced by the vendor; daily deliveries of milk and bakery and other food products; newspaper distribution; sales made to dealers by commercial travelers or sales agents in the usual course of business; or sales made under authority and by order of law.

(B)\\This chapter shall not apply to the sale or soliciting of orders for sales by youth members of the Y.M.C.A., Y.W.C.A., Boys Clubs, Girls Clubs, Boy Scouts, Girl Scouts, and Campfire Girls, when such youth members are soliciting or peddling as a part of a program sponsored by the organization nor shall it apply to sales or soliciting of orders for sales by youth members of any club, organization, fraternity, or sorority sanctioned and approved by the local schools, when such youth members or regular members are soliciting or peddling as a part of a program sponsored by the organization.

(C)\\Nothing in this chapter shall prohibit the sale of newspapers or the sale or giving away of religious literature.
(Ord. 436, passed - -87)

PERMIT PROCEDURE

¢\ll2.l5\\PERMIT BOARD.

There is hereby established a permit board of the city, the name of which shall be the Permit Board of the city. The Permit Board shall be composed of the City Clerk, the Chief of Police, and the City Attorney.
(Ord. 436, passed - -87)

¢\ll2.l6\\PERMIT REQUIRED; FEE.

(A)\\It shall be unlawful for any solicitor, peddler, hawker, itinerant merchant, or transient vendor of merchandise to go in and upon private residences in the city without having been requested or invited so to do by the owner or occupant of such private residence for the purpose of soliciting orders for the sale of goods, wares, and merchandise, or for the selling, peddling, or hawking the same, without first securing a permit from the City Clerk as herein provided.

(B)\\Each applicant for a permit shall be charged a fee of $l5, regardless of the term of the permit. If the applicant is other than an individual, the applicant will be charged an additional fee of $l for each employee working as a solicitor or peddler under the permit.
(Ord. 436, passed - -87) Penalty, see ¢\ll2.99

¢\ll2.l7\\ITINERANT MERCHANT OR VENDOR; PERMIT REQUIRED.

It shall be unlawful for any itinerant merchant or vendor to engage in any activity mentioned in this chapter without first having applied for and having obtained a permit to do so from the city.
(Ord. 436, passed - -87) Penalty, see ¢\ll2.99

¢\ll2.l8\\APPLICATION FOR PERMIT; INFORMATION REQUIRED.

(A)\\Any person desiring to engage in the business of going in and upon private residences in the city for the purpose of soliciting orders for the sale of goods, wares, or merchandise, or of selling, hawking, or peddling the same, shall make an application for a permit to the City Clerk, who shall, if same is in proper form, refer such application to the Permit Board. The members shall investigate applicants and report their findings and recommendations to the City Clerk as soon as is reasonably possible. The City Clerk shall then either grant or refuse such permit, as recommended by the Permit Board.

(B)\\Any person desiring a permit required by this chapter shall make written application therefor to the City Clerk for a permit so

to do, which application shall show the following:

(l)\\The full name and post office address of the applicant.

(2)\\The state, county, town, or city in which the applicant permanently resides.

(3)\\The age, height, weight, complexion, color of hair, and color of eyes of the applicant.

(4)\\The occupation in which the applicant desires to engage and for which he desires a permit.

(5)\\A full and complete description of the goods, wares, and merchandise or other articles or tokens which the applicant desires to sell, which description shall give in detail the grade and character of the property to be sold. Further description as to grade and quality may be required by the Permit Board.

(6)\\Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude.

(7)\\The Permit Board may, upon good cause, waive any or all of the foregoing requirements, or the permit fee.

(8)\\Description and license number of all vehicles to be used by the applicant, and a driver's license for identification.

(C)\\There shall be attached to each application for a permit the following:

(l)\\Two recent photographic likenesses of the applicant's face, which photograph shall not exceed one inch square in size or a copy of driver's license with picture.

(2)\\A certificate or letter from the president, a vice president, general manager, sales manager, assistant sales manager, or district or area manager of the company for which the applicant works, sells, or solicits, stating that the applicant is an employee or agent of such company.

(3)\\A reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization, or a letter from the Better Business Bureau.

(4)\\In the event that the applicant is an individual who is not working, selling, or soliciting for any firm or company, letters of recommendation from two citizens of the applicant's permanent

residence shall be submitted along with a letter of credit from the bank where the individual banks.
(Ord. 436, passed - -87)

¢\ll2.l9\\INVESTIGATION OF APPLICATION.

(A)\\Upon the filing of an application for a permit under this chapter, it shall be the duty of the City Clerk to retain the application and have the Permit Board consider the application as soon as it is reasonably possible.

(B)\\Upon the filing of an application for a permit, it shall be the duty of the City Clerk to circulate the application to the other members of the Permit Board for their consideration. The members of the Board may consider the application either in a meeting or individually.
(Ord. 436, passed - -87)

¢\ll2.20\\BOND.

Every holder of a solicitor's permit, before doing business under such permit shall file with the City Clerk a surety bond in the amount of $l,000, payable to the city. Such bonds shall be approved by the City Attorney. Such bonds shall inure to the benefit of any and all persons who sustain any loss or damage on account of any breach of the conditions of the bonds. Such bonds shall be conditioned as follows:

(A)\\The solicitor's permit bond shall be conditioned that the holder shall comply fully with all the provisions of the ordinances of the city and statutes of the state regulating and concerning the business of solicitor, and guaranteeing to any citizen that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing that the property purchased will be delivered according to the representations of the solicitor.

(B)\\The itinerant merchant's permit bond shall be conditioned that the holder shall comply fully with all provisions of the ordinances of the city and statutes of the state regulating and concerning the sale of goods, wares, and merchandise, and will pay all judgments rendered against the holder for any violation of those ordinances or statutes, together with all judgments and costs that may be recovered against him by any person for damages growing out of any misrepresentation or deception practiced on any person transacting business with such holder, whether said misrepresentations or deceptions were made or practiced by the holder or by his employees or agents, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares, and merchandise sold or any part thereof.
(Ord. 436, passed - -87)

¢\ll2.2l\\ISSUANCE OF PERMIT.

(A)\\If, upon hearing, it shall appear to the Permit Board or a majority thereof that the statements contained in an application for a permit under this chapter are true, and that the applicant has the right, under the Constitution and laws of this state and under the ordinances of this city, to engage in business, and that the applicant has not been convicted of a felony or a misdemeanor involving moral turpitude, the Permit Board shall issue such permit to the applicant.

(B)\\Each permit issued under this chapter shall contain the following:

(l)\\The name of the applicant and his address.

(2)\\The date the permit was issued.
(Ord. 436, passed - -87)

¢\ll2.22\\EXPIRATION.

All permits shall expire on December 3l of the calendar year in which it is issued.
(Ord. 436, passed - -87)

¢\ll2.23\\PERMIT TO BE CARRIED UPON PERSON WHILE SO ENGAGED.

It shall be unlawful for any itinerant merchant or vendor to engage in any activity for which a permit is required by this

chapter unless he carries such permit on his person while so engaged.
(Ord. 436, passed - -87) Penalty, see ¢\ll2.99

¢\ll2.24\\REVOCATION.

If, after the permit provided for in this chapter has been issued, the permit was obtained by false representation in the application, such permit may be revoked by the Permit Board. Such permit may also be revoked, if it shall appear to the Permit Board that the holder of such permit 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 collection, or attempted collection, of any account due to such permit holder or his employer or in connection with the repossession or attempted repossession of goods sold by such permit holder or any other person employed by the employer of such permit holder.
(Ord. 436, passed - -87)

¢\ll2.25\\APPEAL.

If the applicant for a permit under this chapter or the holder of such a permit is dissatisfied with any holding or finding of the Permit Board, he shall have the right to appeal to the Board of Commissioners by filing a written notice of such appeal with the

Permit Board within ten days from the making and filing of such decision of the Permit Board. Upon the filing of such notice of appeal, the application for the permit and all papers possessed by the Permit Board in connection with such application and such permit shall be delivered to the Board of Commissioners, and such matters as may be in controversy shall be heard by the Board of Commissioners at its next regular meeting after the filing of the notice of appeal. The Board of Commissioners shall have the same powers and authority at such hearing on such appeal as is vested in the Permit Board by this chapter.
(Ord. 436, passed - -87)

¢\ll2.99\\PENALTY.

Any person violating the provisions of this chapter shall be subject to a fine of not more than $200. Each and every day's violation of this chapter shall constitute a separate offense.
(Ord. 436, passed - -87)

CHAPTER 113: BODY ART ESTABLISHMENTS

Section

113.01 Purpose
113.02 Definitions
113.03 Location Restrictions for body art establishments
113.04 Permit required to establish or operate a body art establishment
113.05 Inspections
113.06 General offense
113.07 Exceptions

113.99 Penalty

§ 113.01 PURPOSE.

Minors who do not have the consent of their parents are prohibited, by state law, from obtaining a tattoo or body piercing. Location of body art establishments near areas frequented by minors would significantly increase the burden on law enforcement authorities in the interdiction of violations of the state law. Moreover, the location of body art establishments affects the value of property in the area where a studio is located. The following sections regulate the establishment and location of body art establishments to promote the health, safety and general welfare of the citizens of the city. Further, periodic inspections of body art establishments authorized by the city to insure compliance with state law is a legitimate law enforcement endeavor to promote the general health and welfare of the citizens of the city.
(Ord. 577, passed 10-22-99)

§ 113.02 DEFINITIONS.

(A) Adoption of State Law Definitions. Unless otherwise defined in this Code, all terms used in this chapter shall have the respective meanings assigned to them in Chapter 146 of the Texas Health and Safety Code as amended from time to time, and all regulations issued by the Texas Department of Health (or its successor agency) pursuant to the authority granted under Chapter 146 of the Texas Health and Safety Code. In the event of any conflict between the definitions or terms used in this chapter with terms defined or construed under state law, the state law definition or construction will prevail.

(B) Body Art. The practice of physical body adornment by permitted establishments and operators utilizing, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding and scarification.

(C) Body Art Establishment. Any place or premise, whether public or private, temporary or permanent in nature or location, where the practices of body art, whether or not for profit are performed.
(Ord. 577, passed 10-22-99)

§ 113.03 LOCATION RESTRICTIONS FOR BODY ART ESTABLISHMENTS.

A body art establishment shall not be established or operated within 1,500 feet of a child care facility, church or place of worship, dwelling, public building, public park or retail establishment in which minors are permitted to enter. Temporary body art locations, such as craft fairs and public events, are prohibited. (Ord. 577, passed 10-22-99) Penalty, see § 113.99

§ 113.04 PERMIT REQUIRED TO ESTABLISH OR OPERATE A BODY ART ESTABLISHMENT.

(A) Permit Required. No one may establish or operate a body art establishment within the city limits unless such individual has a permit issued by the city under this section.

(B) Permit Application Procedure. Any person who seeks to establish or operate a body art establishment may apply for a permit as follows:

(1) The applicant shall complete an application and submit the application together with such information or documents as may be required by the application to the officer or employee of the city designated in the application including a photocopy of the applicant's identification.

(2) The applicant shall submit a fee of $250.00 with the application to defray the cost to the city of processing the application, verifying the information therein and issuing a permit.

(3) The City Manager or his designee shall issue a permit, if the following requirements have been met:

(a) The applicant has a current license issued by the Texas Department of Health authorizing him to conduct a tattooing or body piercing business or body art establishment at the location for which the permit is sought;

(b) All persons who are to engage in the body art business at the location have a current license issued by the Texas Department of Health;

(c) The body art establishment for which a city permit is sought is not located in an area in violation of § 113.03 above;

(d) The applicant has provided evidence of compliance with applicable law regarding the maintenance of records;

(e) The applicant is not a party to any action by the Texas Department of Health seeking the forfeiture of his license or the imposition of a civil penalty;

(f) Neither the applicant nor any person practicing tattooing, body piercing or body art at the location has, within three years of the date the application is filed with the city, been:

(i) Convicted of any violation of Chapter 146 of the Texas Health and Safety Code or any similar law or regulation;

(ii) The subject of a final judgement suspending or forfeiting his license for operation of a tattoo or body piercing studio or body art establishment by any state or governmental agency; or

(iii) The subject of a final judgement brought by or on behalf of the Texas Department of Health imposing a civil penalty under Chapter 146 of the Texas Health and Safety Code (or the regulations promulgated thereunder).

(g) The applicant has made the location for which the city permit is sought available for inspection by the city and no violations of state law or this chapter have been found.

(4) The City Manager or his designee shall act upon the application within ten days of the date the city is provided all information requested by the application, including any verifications of information from third parties such as officers or employees of the Texas Department of Health, and all inspections are completed. An applicant dissatisfied with the decision of the City Manager or his designee may appeal the decision to the City Manager (if the City Manager has delegated the initial decision to another person). If the applicant is dissatisfied with the decision of the City Manager, he may appeal the City Manager's decision to the Board of Commissioners of the city by delivering written notice of appeal to the City Secretary ten days from the date the applicant is notified of the City Manager's decision. The City Manager's decision shall be considered "delivered" to the applicant at the address set forth in the application on either the third day following the date the decision is mailed to the applicant at the address set forth in the application or the date the decision is personally delivered to the applicant by an officer or employee of the city.

(C) Development of Application. The City Manager or the City Manager's designee shall develop an application form which will have all information required to carry out the terms of this chapter as well as all information necessary or useful in the city's discharge of its duty to enforce any laws applicable to body art establishments. The application may be amended, from time to time, by the City Manager or his designee.

(D) Expiration of Permits. Each permit granted by the city shall expire on the next anniversary date of the date the permit is issued to an applicant by the Texas Department of Health. Further, the permit issued by the city shall only be valid for the location stated in the applicant's application to the city and shall become void if the

applicant moves the body art establishment from the location stated in the application. Upon expiration of a permit issued by the city, the applicant shall apply for a permit in the manner stated in § 113.04 (B) above.
(Ord. 577, passed 10-22-99)

§ 113.05 INSPECTIONS.

Body art establishments may be inspected by a qualified sanitation inspector, from time to time, prior to the issuance of a permit by the city or afterwards, to insure compliance with the provisions of this chapter and state law. The body art establishment will be responsible for all costs associated with these inspections. In the event an inspection reveals that a body art establishment is in violation of any provision of this chapter, the city may revoke the permit issued by the city. The decision of whether a permit issued by the city should be revoked shall be made by the City Manager. Such decision shall be delivered by the City Manager to the permittee in writing. A permittee may appeal the City Manager's decision to the Board of Commissioners of the city in the same manner specified in § 113.04 (B) (4) above. In the event an inspection reveals that a body art establishment is in violation of any provision of state law, such violation shall be reported by the city official to the Texas Department of Health. The permittee or applicant and all agents and employees of the permittee or applicant shall cooperate with the city inspector with any relevant information requested to insure compliance with this chapter and state law and complete access to the body art establishment.
(Ord. 577, passed 10-22-99)

§ 113.06 GENERAL OFFENSE.

It shall be unlawful for any person:

(1) To establish a tattoo studio, a body piercing studio or a body art establishment within the corporate limits of the city without first obtaining a permit from the city;

(2) To operate a tattoo studio, a body piercing studio or a body art establishment within the corporate limits of the city without a current, non-expired permit from the city; or

(3) To fail to provide an inspector, who is in the course of an inspection authorized by § 113.05 above, access to any relevant information requested to insure compliance with this chapter or state law and complete access to the body art establishment.
(Ord. 577, passed 10-22-99)

§ 113.07 EXCEPTIONS.

Notwithstanding any other provision herein, nothing in this chapter shall apply to the following:

(1) A doctor of medicine, doctor of osteopathic medicine or a registered nurse licensed and regulated by the State of Texas while operating within the scope of that person's license;

(2) A clinic or hospital operated by a doctor of medicine or doctor of osteopathic medicine; or

(3) Persons licensed or practicing by authority of the Texas Cosmetology Commission or the Texas Board of Barber Examiners, so long as these persons practice within the scope of the license or permit duly issued by the Texas Cosmetology Commission and who, as an incidental part of their business or vocation, engage in tattooing or body piercing, so long as they comply with the provisions of Chapter 146 of the Texas Health and Safety Code with respect to such practices. For the purposes of this subsection, "incidental" shall mean less than 50% of their business revenue and less than 50% of their floor space is devoted to tattooing, body piercing or body art.
(Ord. 577, passed 10-22-99)

§ 113.99 PENALTY.

Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine in any sum not to exceed $500. Each day's operation in violation of this chapter shall constitute a separate offense.
(Ord. 279, passed 2-20-67; Am. Ord. 577, passed 10-22-99)

CHAPTER ll4:\\TAXICABS

Section

ll4.0l\\Definitions
ll4.02\\License required; fee
ll4.03\\Issuance of license
ll4.04\\Insurance requirement
ll4.05\\Driver's license required
ll4.06\\Display of company name and driver's license
ll4.07\\Rates to be posted
ll4.08\\Number of passengers
ll4.09\\Records to be kept
ll4.l0\\Lost property
ll4.ll\\Accident reports
ll4.l2\\Change of address
ll4.l3\\Suspension or revocation of licenses for violation
ll4.l4\\Refusal of passengers to pay charge
ll4.l5\\Enforcement

ll4.99\\Penalty

¢\ll4.0l\\DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"DRIVER." Includes every person in charge of or operating any taxicab, as defined below, either as agent, employee, or otherwise.

"OWNER." Any person, firm, or corporation who has the bona fide legal title to or control, direction, operation, maintenance, or leasing of a taxicab, as defined below, or the collection of revenue derived from taxicabs so operated for hire on the streets of the city.

"TAXICAB." Any motor vehicle propelled and operated for passage or hire, subject to call from a garage, office, or other place, or otherwise operating for hire, except motor buses running and operating on established routes, sight-seeing buses, and funeral vehicles.

¢\ll4.02\\LICENSE REQUIRED; FEE.

(A)\\No person, firm, or corporation shall operate or conduct a taxicab business in the city without first having obtained the required taxicab license from the City Clerk, and fully paying for it.
No license to operate or conduct a taxicab business shall be granted until and unless the applicant therefor shall file in the office of the City Clerk an application on forms provided by the city.

(B)\\Each person, firm, or corporation owning or operating taxicabs in the city shall pay an annual license fee in the amount established by the city from time to time, for each taxicab operated. The licenses shall be for one year.
Penalty, see ¢\ll4.99

¢\ll4.03\\ISSUANCE OF LICENSE.

Upon receipt of an application for a license to operate a taxicab, the City Clerk shall investigate all the facts stated in the application. If the City Clerk deems it advisable that the applicant should be permitted to operate or conduct a taxicab business in the city, he shall approve the application and shall thereupon issue the license upon the payment of the fee and the filing of the insurance policy as provided in ¢\ll4.04. If the City Clerk does not deem it advisable that the applicant should be permitted to conduct this business, he shall reject the application and no license shall be issued to the applicant. The applicant may appeal from this decision by filing a statement of appeal with the Board of Commissioners, whereupon the Board shall pass upon the application and shall approve or reject it.

¢\ll4.04\\INSURANCE REQUIREMENT.

(A)\\Before any license is issued for a taxicab, as defined in¢ \ll4.0l, the owners shall file with the office of the City Clerk an indemnifying bond or insurance policy, to be approved by the Board of Commissioners, in some good and solvent incorporated insurance company licensed and admitted to do business in the state. The policy shall continuously cover each taxicab owned, operated, or leased by the applicant, and the insurance company shall be liable in the sum of not more than $300,000 for any one accident resulting in bodily injuries to or the death of one person, and not more than $300,000 total liability on account of any one accident resulting in bodily injuries to or the death of more than one person, regardless of whether the taxicab was being driven by the owner or his agent or lessee. The policy shall further provide that the insurance company shall be liable in the sum of $l00,000 for any property damage which may occur by reason of the negligence or careless operation of any taxicab covered by the policy, regardless of whether the taxicab was being driven by the owner, his agent or lessee, or a licensee.

(B)\\This required insurance bond or policy shall further provide that insolvency or bankruptcy of the insured shall not release the surety or insurance company from any payment due under the policy, and if by reason of insolvency or bankruptcy an exception on a judgment against the insured is returned unsatisfied, the judgment creditor shall have a right of action against the company to cover the amount of the judgment to the same extent that the insured would have had to recover against the company had the insured paid the judgment.

(C)\\The policy shall further provide that it may not be cancelled until after l5 days' notice to the office of the City

Clerk. If the owner shall fail within this l5 days to provide another policy of like kind and manner, then the permit and license, provided for herein, shall be revoked by the City Clerk as of the day the insurance ceases to be in effect.
Penalty, see ¢\ll4.99

¢\ll4.05\\DRIVER'S LICENSE REQUIRED.

(A)\\It shall be unlawful for any person to drive, operate, or be in charge of any taxicab without having first obtained a permit, in writing, from the office of the City Clerk to do so. Applicants for taxicab permits shall file with the office of the City Clerk an application, in writing, upon blanks to be furnished by the city, a statement and doctor's certificates. Applicants shall also be fingerprinted by the Police Department. The application shall be accompanied by a license fee in the amount established by the city, which shall be returned to the applicant if the application is not approved.

(B)\\The City Clerk shall investigate the facts in the application before approving the license. In the event that the City Clerk refuses to issue a driver's license, applicants may appeal from the decision by filing a statement of appeal with the Board of Commissioners, which shall approve or reject the application.

(C)\\The holding of a taxicab driver's license shall permit the holder thereof to drive a taxicab for one current license year. The City Clerk shall issue to the holder of the permit a card of a design and bearing the words and numerals as prescribed by the Board of Commissioners, containing the name and picture of the driver.
Penalty, see ¢\ll4.99

¢\ll4.06\\DISPLAY OF COMPANY NAME AND DRIVER'S LICENSE.

(A)\\Every taxicab used for carrying passengers for hire shall have the name of the taxicab company painted on each side of the taxicab so as to be readily visible and in a manner approved by the city.

(B)\\It shall be unlawful for any owner or driver to operate a taxicab in the city unless the driver's permit card is displayed in the taxicab in a conspicuous place so that it is in full view of the passengers.
Penalty, see ¢ ll4.99

¢\ll4.07\\RATES TO BE POSTED.

An up-to-date schedule of rates in effect shall be continually posted in each taxi, and a copy shall be filed with the City Clerk. A new schedule shall be filed with the City Clerk, and a new schedule shall be filed and posted whenever any change is made.
Penalty, see ¢\ll4.99

¢\ll4.08\\NUMBER OF PASSENGERS.

No driver of a licensed taxicab shall carry any person or persons in the back seat other than the passenger or passengers by whom he has been engaged, nor shall he carry more than five passengers on any one trip.
Penalty, see ¢\ll4.99

¢\ll4.09\\RECORDS TO BE KEPT.

Every taxicab operator, owner, and driver shall keep a daily record of all calls made, the number of passengers transported, and the time and place each passenger was secured and discharged. These records shall be kept by the owner or operator at his place of business for one year, and shall be subject to inspection by any police or other officer of the city at all times.
Penalty, see ¢\ll4.99

¢\ll4.l0\\LOST PROPERTY.

Drivers of taxicabs shall promptly report to the Police Department all property of value left in the vehicles by passengers, together with all information in his possession regarding the same.
Penalty, see ¢\ll4.99

¢\ll4.ll\\ACCIDENT REPORTS.

It shall be the duty of every taxicab driver to report, in writing, to the Chief of Police, upon blanks to be approved by the city, of injuries to persons or property, accidents, or casualties in which the taxicab driven by him participated, directly or indirectly. This shall be made within 24 hours after the happening thereof and shall give in detail the time, place, nature, and cause of the injury, or the name, address, and license number of the driver submitting the report. Physical disability shall alone constitute excuse for noncompliance with the foregoing provisions.
Penalty, see ¢\ll4.99

¢\ll4.l2\\CHANGE OF ADDRESS.

It shall be the duty of every driver to notify the office of the City Clerk in writing, of any change in his address, giving his new address in full.
Penalty, see ¢\ll4.99

¢\ll4.l3\\SUSPENSION OR REVOCATION OF LICENSES FOR VIOLATION.

(A)\\The taxicab license or chauffeur license granted under this chapter may be revoked at any time by the City Clerk if the vehicle is used for immoral or illegal purposes; if the driver of the vehicle is convicted of the violation of any city, state, or federal law; or if the owner or driver violates any of the terms of this chapter. The taxicab license or chauffeur license may also be

suspended or revoked at any time if the vehicle is not in good operating condition and appearance. Licenses when so suspended or revoked shall not be reissued until the vehicle and all appurtenances

are put into proper condition for the use of the public.

(B)\\Notice of the hearing for revocation or suspension of a license shall be given in writing stating the grounds of the complaint and the time and place of the hearing. This notice shall be mailed, postage prepaid, to the licensee at the address given on the application for the license, at least ten days prior to the date set for the hearing.

(C)\\Any person aggrieved by the decision made during the hearing shall have the right to appeal to the Board of Commissioners. This appeal shall be taken by filing a written statement of the grounds for the appeal within a specified time after notice of the decision has been given. A time and place for hearing the appeal shall be set, and notice of the time and place shall be given in the manner provided in division (B) above for notice of a hearing for a license revocation or suspension.

¢\ll4.l4\\REFUSAL OF PASSENGERS TO PAY CHARGE.

It shall be unlawful for any person, with intent to defraud the owner or operator of any public vehicle for hire, to engage carriage therein. Refusal to pay the lawful charge for the carriage, absconding without payment or offering to pay the charges shall be prima facie evidence of the intent to defraud.
Penalty, see ¢\ll4.99

¢\ll4.l5\\ENFORCEMENT.

Enforcement of the provisions of this chapter shall be under the control of the city.

¢\ll4.99\\PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter, for which another penalty is not provided, shall be guilty of a misdemeanor and in addition to having his license revoked shall be fined not more than $200 for each offense.

CHAPTER 115: ADULT BUSINESSES

Section

115.01 Definitions
115.02 Prohibited in certain areas
115.03 Defense to prosecution
115.04 Conditional use permit; when required

115.99 Penalty

§ 115.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADULT BOOK STORE." An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to a "SPECIFIED SEXUAL ACTIVITIES" separate segment or section devoted to the sale or display of such material.

"ADULT MOTION PICTURE THEATER." An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "SPECIFIED SEXUAL ACTIVITIES" or " SPECIFIED ANATOMICAL AREAS" for observation by patrons therein.

"SEMI-NUDE." A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of female breasts, as well as portions of the body covered by supporting straps or devices.

"SPECIFIED ANATOMICAL AREAS." Shall mean:

(1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"SPECIFIED SEXUAL ACTIVITIES." Shall mean:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, or sodomy; and/or

(3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.
(Ord. 458, passed 3-20-89)

§ 115.02 PROHIBITED IN CERTAIN AREAS.

(A) A person commits an offense if he operates or causes to be operated within 1,000 feet of a church, a public or private elementary or secondary school, a residential dwelling unit in which one or more persons maintain a residence, a public park, or another business of a type hereinafter enumerated in this section, a business of one of the following types:

(1) An adult book store as hereinafter defined.

(2) An adult motion picture theater as hereinafter defined.

(3) A business or enterprise which offers for a consideration nude human modeling.

(4) A business or enterprise that offers for a consideration physical contact between persons when one or more of such persons are nude or semi-nude.

(B) For the purpose of this chapter, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building used as a business or enterprise enumerated in division (A) to the nearest portion of the building used by another business or enterprise so enumerated or the nearest property line of the premises of a church, a public or private elementary or secondary school, a public park, or to the nearest portion of a building used as a residential dwelling unit in which one or more persons maintain a residence.
(Ord. 458, passed 3-20-89)

§ 115.03 DEFENSE TO PROSECUTION.

It shall be a defense to prosecution under § 115.02 (A)(3), that the business or enterprise is a proprietary school licensed by the State of Texas.
(Ord. 458, passed 3-20-89)

§ 115.04 CONDITIONAL USE PERMIT; WHEN REQUIRED.

No person shall operate a business of the type described in § 115.02 without a conditional use permit authorizing such operation. The City Clerk shall provide the necessary forms and shall establish the

procedures for the application for, and issuance of such permits. Such permits shall be issued by the City Clerk, for which a fee of $50 shall be charged.
(Ord. 458, passed 3-20-89)

§ 115.99 PENALTY.

A person who violates a provision of this chapter is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued or permitted, and each offense is punishable by a fine not to exceed $200.
(Ord. 458, passed 3-20-89)

CHAPTER 116: STREET VENDORS

Section

116.01 Permit required
116.02 Permit fee
116.03 Health certificate required for sale of foodstuff
116.04 Permit application
116.05 Applicant
116.06 Liability insurance
116.07 Issuance of permit
116.08 Rules and regulations

116.99 Penalty

§ 116.01 PERMIT REQUIRED.

It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity on any street in the city, without first securing a permit and paying the fee therefor.
(Ord. 411, passed 5-21-84) Penalty, see § 116.99

§ 116.02 PERMIT FEE.

The permit fee shall be $25 for a three-month period for each vehicle used in street vending.
(Ord. 411, passed 5-21-84)

§ 116.03 HEALTH CERTIFICATE REQUIRED FOR SALE OF FOODSTUFF.

In the event the applicant sells or intends to sell any form of foodstuff (including, but not limited to ice cream, pastries or snow cones), then no vendor's permit shall be issued without the applicant first obtaining a valid and current health certificate.
(Ord. 411, passed 5-21-84) Penalty, see § 116.99

§ 116.04 PERMIT APPLICATION.

A permit application shall be prepared by the City Secretary and shall include the following information:

(A) Name;

(B) Address;

(C) Phone number;

(D) Driver's license number;

(E) Employer, if any;

(F) Suppliers;

(G) Commodity;

(H) Proof of liability insurance.
(Ord. 411, passed 5-21-84)

§ 116.05 APPLICANT.

The applicant for such permit must also be the holder of the health permit and be the licensed operator of any vehicle used for street vending.
(Ord. 411, passed 5-21-84) Penalty, see § 116.99

§ 116.06 LIABILITY INSURANCE.

The applicant shall furnish proof of liability insurance for the operation of any vehicle used for street vending. The minimum coverage shall be the same as required by law for the operation of any motor vehicle.
(Ord. 411, passed 5-21-84)

§ 116.07 ISSUANCE OF PERMIT.

If the applicant meets the foregoing requirements, and has not been convicted of a felony or a crime involving moral turpitude, then the City Secretary shall issue a permit.
(Ord. 411, passed 5-21-84)

§ 116.08 RULES AND REGULATIONS.

The following rules and regulations shall be complied with by each person using a vehicle for street vending.

(A) It shall be unlawful for any street vendor to sell or attempt to sell any commodity:

(1) By means of any outcry, sound, speaker or amplifier, or any instrument, or device which can be heard for a distance greater than 300 feet, or when passing a hospital, or a church or other place of worship during the hours when services are being held;

(2) Within 500 feet of any school or school grounds during the school year.

(B) It shall be unlawful for any such vendor to use, play or employ the use of, any sound, outcry, amplifier, loudspeaker, radio, phonograph with loud speaker or amplifier, tape player or any other instrument or device when the vehicle such vendor is using is stopped for the purposes of making a sale.

(C) The use by any such vendor of any outcry, sound, amplifier, loud speaker, radio, phonograph with a loud speaker or amplifier, tape player or any instrument or device which emits sounds shall be prohibited before the hours of 9:00 a.m. on weekdays and 10:00 a.m. on Sundays, or after 7:00 p.m. on any day.

(D) It shall be unlawful for any such vendor to:

(1) Exceed a speed of 12 miles per hour when cruising neighborhoods seeking sales or when attempting to make a sale;

(2) Make more than two stops in any one block to make any sale;

(3) Stop anywhere within 50 feet of an intersection when making a sale or attempting to make a sale;

(4) Double park, or park more than two feet from the right side of the road as measured from the curb or edge of pavement, whichever the case may be, when attempting a sale or when making a sale;

(5) Make a U-turn on any block;

(6) Drive his or her vehicle backwards to make or attempt any sale;

(7) Sell to any person who is standing in the street;

(8) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant or assistants;

(9) Remain standing or stopped at any place for a period of time exceeding five minutes;

(10) Sell or attempt to sell along any particular route more than one time during a 24-hour period.

(11) Sell or attempt to sell any foodstuff without a valid and current health certificate from the Wichita County Health Unit.
(Ord. 411, passed 5-21-84) Penalty, see § 116.99

§ 116.99 PENALTY.

Any person, firm or corporation violating any provision of this chapter shall be fined not less than $5 nor more than $200 for each offense. In the event any such vendor is convicted of a violation of this chapter for two or more separate offenses, then his or her permit shall be automatically terminated, and no new permit may be issued for a period of 30 days.
(Ord. 411, passed 5-21-84)

CHAPTER 117: ALCOHOLIC BEVERAGES

Section

General Provisions

117.01 Applicability of chapter
117.02 Compliance with zoning and subdivision ordinances and other regulations
117.03 Restrictions on sales within prescribed distances of public or private schools, churches and public hospitals
117.04 Hours of sale and consumption
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Business Licenses and Permits

117.20 Application; contents
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117.25 Display of license or permit
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117.99 Penalty

GENERAL PROVISIONS

§ 117.01 APPLICABILITY OF CHAPTER.

The storage, sale, possession or serving of any alcoholic beverages, when permitted by the laws of the state shall be regulated and governed as provided herein.
(Ord. 744, passed 12-17-07)

§ 117.02 COMPLIANCE WITH ZONING AND SUBDIVISION ORDINANCES AND OTHER REGULATIONS.

The storage, possession, sale or serving of alcoholic beverages by anyone for the consumption, either on or off the premises, shall be prohibited unless:

(A) On land located in a commercial/business or industrial zone, as defined by the city's zoning ordinance (Ordinance No. 589, adopted April 17, 2000, as amended, from time to time);

(B) On land developed in compliance with the city's land usage regulations (Title XV of this Code of Ordinances); and

(C) In a manner consistent with all other application ordinances, rules, regulations, statutes or law of the City of Burkburnett, Texas, the State of Texas or the United States of America including this Chapter 117 of the Code of Ordinances of the City of Burkburnett, Texas.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.03 RESTRICTIONS ON SALES WITHIN PRESCRIBED DISTANCES OF PUBLIC OR PRIVATE SCHOOLS, CHURCHES AND PUBLIC HOSPITALS.

(A) It shall be unlawful for any person who is engaged in the business of selling alcoholic beverages to sell alcoholic beverages where the place of business of any such person is within 300 feet of any church, public or private school, or public hospital.

(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 right angles through intersections.

(C) 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 right angles through intersections.

(D) The Board of Commissioners may allow a variance to this section if it determines that the enforcement of the regulation in a particular instance is not in the best interests of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, or is not effective or necessary or for any other reason the Board of Commissioners determines, after consideration of the health, safety and welfare of the public and the equities of the situation that the variance is in the best interest of the community.

(E) The term "PRIVATE SCHOOL", including a parochial school, means a school offering a course of instruction for students in one or more grades from kindergarten through grade 12 and has more than 25 students enrolled and attending courses at a single location.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.04 HOURS OF SALE AND CONSUMPTION.

The hours of sale and consumption shall be as required by the Texas Alcoholic Beverage Commission.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.05 ALCOHOLIC BEVERAGE SALES FOR ON-PREMISES CONSUMPTION MUST BE INCIDENTAL TO HOTEL, MOTEL, OR RESTAURANT.

No person shall sell, store, dispense or otherwise handle for the purpose of sale or engage in the business of selling, storing, dispensing, or otherwise handling for sale any alcoholic beverage in the city for on-premises consumption except in a location where such activity is either incidental and secondary to use on the same premises or where incidental and secondary to the sale of food for human consumption such as a hotel, motel or restaurant. An establishment that derives 51% or more of the establishment's gross revenue from the on-premise sale of alcoholic beverages shall not be considered one where the sale of alcoholic beverages is incidental or secondary to the use of the premises or to the sale of food for human consumption.
(Ord.744, passed 21-17-07) Penalty, see § 117.99

BUSINESS LICENSES AND PERMITS

§ 117.20 APPLICATION; CONTENTS.

Any person applying for a permit or license issued by authority of the Texas Alcoholic Beverage Commission or a renewal of such permit or license or to change the location of the place of business designated in such permit or license shall deliver to the City Secretary, for filing, one copy of the appropriate forms prescribed by the Texas Alcoholic Beverage Commission, together with scale drawings showing the proposed location of the applicant's business in relation to streets, property lines and the nearest church, public or private school, or public hospital. Such person shall also provide a statement of his name, current address, addresses for the previous ten, years, age, all other city permits or licenses held, and the names and addresses of all persons with an interest in such business, which statement shall include an affidavit that the information given is true and correct. The applicant shall give permission for his fingerprints, height, weight, race and other description to be obtained by the police department.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.21 REVIEW OF APPLICATION BY CITY SECRETARY; CERTIFICATION AS TO ZONING; OBJECTIONS TO ISSUANCE.

The City Secretary shall review the application as submitted by the applicant, note verification from all appropriate staff agencies, that local city taxes and municipal fees are current. If, from the City Secretary's examination, it appears that the applicant is disqualified, or that the applicant's place of business is inadequate, unsafe, unsanitary or does not comply with all the terms of this Code, the City's zoning ordinance (Ordinance No. 589 adopted April 17, 2000, as amended), the Texas Alcoholic Beverage Commission, or that any lawful reason exists why the permit or license should not be issued, it shall

be the duty of the City Secretary to file objections to the issuance of the permit or license with the Texas Alcoholic Beverage Commission or with the county judge.
(Ord. 744, passed 12-17-07)

§ 117.22 FEES GENERALLY.

(A) No permittee or licensee under this chapter shall engage in the business authorized by his permit or license without first having paid to the city the permit or license fee levied by this section. It shall be the duty of the City Attorney to petition the Texas Alcoholic Beverage Commission to cancel the permit or license of any permittee or licensee who shall engage in the business authorized by the permit or license of such person without first having paid the fees levied by this section.

(B) There is hereby levied on each person granted and holding a license or permit under this chapter and engaged in the business authorized by such license or permit in the city an annual fee in an amount equal to one-half of the amount charged or taxed by the state pursuant to the Alcoholic Beverage Code for each type of business or occupation.
(Ord. 744, passed 12-17-07)

§ 117.23 FEES TO BE PAID IN ADVANCE; SEPARATE LICENSE OR PERMIT REQUIRED FOR EACH PLACE OF BUSINESS.

The fees required for licenses and permits as required by § 117.22 shall be paid in advance for one year. A separate license or permit as required by this chapter shall be obtained for every place of business where the business of alcoholic beverage manufacture, distribution, or sale is conducted and fees for each such license or permit shall be paid.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.24 ISSUANCE; CONTENTS.

Upon approval by the City Manager and payment of the required fees, the City Secretary shall issue a license or permit in the name of the city, which shall acknowledge receipt of such amount and shall contain the number, name, and expiration date of the state permit or license, the name of the permittee or licensee, the trade name of such permittee or licensee, the address of the business, and the date of issuance.
(Ord. 744, passed 12-17-07)

§ 117.25 DISPLAY OF LICENSE OR PERMIT.

The license or permit issued by the City Secretary under this chapter shall be displayed at all times in a conspicuous place within the licensed or permitted place of business.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.26 REFUND OF FEES.

No refund of a fee paid the city under the terms of this chapter shall be made for any reason except when the permittee or licensee is prevented from continuing in business by reason of the result of a local option election or an amendment of the zoning regulations of the city concerning the property on which the place of business is situated.
(Ord. 744, passed 12-17-07)

§ 117.27 RECORDS.

All persons operating establishments engaging in the sale of alcoholic beverages within the city for on-premises alcoholic beverage consumption shall comply with the reporting requirements of this section.

(A) During the first year of any license for on-premises alcoholic beverage consumption issued to a new license-holder, the owner, operator or person in control of an establishment licensed by the state for on-premises alcoholic beverage consumption shall, on a quarterly basis with the quarters ending March 31, June 30, September 30 and December 31, file with the City Secretary an affidavit, on an officially approved form provided by the City Secretary, that reflects gross sales for the preceding three months, indicating the sales of non-alcoholic items and alcoholic beverages. The quarterly reports for the previous three-month period shall be due on or before the 25th day of April, July, October and January. In the event that no violation occurs during the first year, then the business will only be required to report on an annual basis, thereafter; which annual report and information shall be due on or before the 25th day of January following the calendar year to which it relates.

(B) The party shall also file on a quarterly basis, at the same time the affidavit on sales is filed, a copy of the filing(s) supplied to the state for sales tax and alcoholic beverage tax purposes for the previous three-month period.

(C) Such affidavit and copies of filing(s) supplied to the state for sales tax and alcoholic beverage tax purposes shall be reviewed by the City Manager or designee for compliance with the provisions of § 117.05 regarding the ratio of non-alcohol items to alcohol beverage sales.

(D) If any of the reports or information submitted pursuant to this section indicates that the filing establishment does not comply with the percentage requirements of § 117.05, the establishment shall have until the next due date of a quarterly report to bring the establishment into compliance with city ordinances. The licensee shall be notified by certified mail by the City Secretary that a violation of this section has occurred. Such notification shall specify the date by

which the licensee must be in compliance with § 117.05. A report containing the information specified in divisions (A) and (B) above must be filed with the City Secretary on or before the date required for compliance as stated in the letter of notification of violation.

(E) If any report or information required by this section is not timely submitted to the City Secretary, the City Secretary shall notify the licensee by certified mail that a quarterly report has not been submitted. The licensee shall have a period of ten days after the date of delivery marked on the certified mail return receipt to file the quarterly report.

(F) Failure to file any report or provide any of the information required by this section or failure to bring the establishment into compliance by the next due date of a required report shall constitute a violation of this section. The City Attorney may inform the Texas Alcoholic Beverage Commission that the establishment is no longer in compliance with the city ordinances as previously certified to by the City Secretary and request that the Texas Alcoholic Beverage Commission take whatever action is available under the Texas Alcoholic Beverage Code to revoke the state license.

(G) The person operating an establishment subject to the reporting requirements of this chapter shall permit the City Manager or a designated agent to view and copy the books, records and receipts relative to sales of non-alcohol items and alcoholic beverages at any time after 24 hours notice. In the event the City Manager finds a violation then the business will be required to comply with divisions (A) and (B) above for the succeeding 12 months.

(H) The city shall, at any time, have the right to request the establishment to provide a prior quarters report(s) in order to determine the business has remained in compliance. In the event the establishment fails to be in compliance then in that event the business will be subject to the quarterly reporting requirements for another year.
(Ord. 744, passed 12-17-07) Penalty, see § 117.99

§ 117.28 LICENSE AND PERMIT RENEWALS.

No license or permit issued under this chapter shall be renewed for any location where the records required by § 117.27 indicate that such location is not in compliance with the gross receipts requirements of § 117.05. In the event a license or permit is not renewed, no new license or permit shall be granted for alcoholic beverage sales at such location for a period of six months.
(Ord. 744, passed 12-17-07)

§ 117.29 APPLICATION TO PRIVATE CLUBS.

The provisions of this chapter shall apply to private clubs except it shall not apply to private clubs incidental to a hotel or motel, as

defined in the zoning ordinance; nor to private clubs licensed by the state which are owned and operated by nonprofit service organizations, such as Veterans of Foreign Wars and the American Legion.
(Ord. 744, passed 12-17-07)

§ 117.99 PENALTY.

It shall be unlawful for any person to store, sell, possess or serve any alcoholic beverage within the city in violation of any of the provisions of this chapter. Upon proper proof of a violation of this chapter, the person violating same shall be deemed guilty of a misdemeanor punishable by a fine not to exceed $500 for each violation. Each day a violation of this chapter occurs shall be deemed a separate offense.
(Ord. 744, passed 12-17-07)

CHAPTER 118: LODGING ESTABLISHMENTS

Section

118.01 Definitions
118.02 Records required; retention
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118.99 Penalty

§ 118.01 DEFINITIONS.

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

"CLEAN." Free from dirt, impurities or multiple stains; hygienic conditions and practices that serve to promote or preserve health.

"CONTINUAL, CONTINUED, OR REPEAT VIOLATION." A particular condition of construction, operation, or maintenance which is found in violation of these rules on three or more consecutive inspections or laboratory analyses within a twelve month period.

"CONTAGIOUS DISEASE." A diagnosis of an illness due to Norovirus; hepatitis A virus, Salmonella typhi; Shigella spp, shiga toxin-producing Escherichia coli; or similar organism clinically suspected to cause symptoms of vomiting, diarrhea, jaundice or sore throat with fever and considered transmissible.

"EASILY CLEANABLE." Surfaces, which are readily accessible, and made of such materials and finishes and so fabricated that residue, may be effectively removed by normal cleaning methods.

"EQUIPMENT." Any items used in connection with the operation of a lodging establishment including but not limited to any washer, dryer, ice machine, fans, air conditioning units, heaters, refrigerators, or cooking units.

"EXCESSIVE." More than a usual, multiple or an unreasonable number.

"EXTENDED STAY." Guests that stay for a week or longer in length.

"FIXTURES." Any sinks, bathtubs, showers, toilet fixtures, or any other such items used in connection with the operation of a lodging establishment.

"FURNISHINGS." Any bedding, furniture, lamps, or any such items used in connection with the operation of a lodging establishment.

"GUEST." Any person who rents and occupies a guest room in a lodging establishment.

"GUESTROOM." Any room or unit where sleeping accommodations are regularly offered to the public.

"IMMINENT HEALTH HAZARD." A situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if immediate action is not taken.

"INSPECT OR INSPECTION." An examination by the Director of Health or his or her designee of the lodging establishment structure, facilities, equipment, and operations. The inspection area shall include, but not be limited to, the public and guest rooms; fixtures; furnishings; equipment and utensils; water supply and waste disposal facilities; and the buildings' surroundings. It shall also include a determination of the cleanliness and maintenance of the building, furnishings fixtures, equipment and utensils, and any other examination necessary to determine the degree to which any lodging establishment complies with the provisions of these rules. Inspections are performed on a routine schedule or as a result of a complaint.

"KITCHENETTES." A small kitchen with refrigeration, vented cooking range, dishwashing sinks and cooking utensil storage.

"LAW." All federal, state, and local statutes, ordinances, and/or rules.

"LINENS." mean The fitted sheets, top sheets, and pillows excluding coverlets and comforters.

"LODGING ESTABLISHMENT." Any building, group of buildings, structure, facility, place, or places of business where two or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire. It can be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabins, tourist home, bunkhouse, bed and breakfast, or other similar place by whatever name called, and includes all such accommodations operated for hire as lodging establishments for either transient guests, permanent guests,

or for both transient and permanent guests. The term does not include duplexes, quadriplexes, dormitories, and apartment complexes.

"MANAGER OR OPERATOR." The owner's agent or representative, who is directly responsible for operation of the lodging establishment.

"NUISANCE." Any condition as defined in Tex. Health and Safety Code § 341.011.

"NUMERICAL SCORE." The score determined by deducting the values of all items found in violation from 100.

"OWNER." A person(s) who holds legal possession or ownership of a total or partial interest in the structure or property on which exists a lodging establishment.

"REGULATORY AUTHORITY." means The director of the Wichita Falls-Wichita County Public Health District or his or her designee.

"RULES." City and county ordinances or state statutes.

"SANITARY." Free from harmful elements, including pathogens that endanger public health.

"SANITIZE." The effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemical for sufficient time to reduce the bacterial count, including pathogens, to a safe level on cleaned surfaces.

"SEALED." Free of multiple cracks or other openings that permit the entry or passage of excessive moisture that causes water damage to the properly.

"SINGLE SERVICE ARTICLES OR UTENSILS." Cups, containers, ice bucket liners, stirrers, paddles, straws, napkins, doilies, wrapping materials and similar articles intended for one time use and then discarded.
(Ord. 782, passed 7-19-10)

§ 118.02 RECORDS REQUIRED; RETENTION.

It shall be the duty of the regulatory authority to provide inspection records for review. Records shall be kept for a minimum of five years and shall be available for review according to the public information act.
(Ord. 782, passed 7-19-10)

§ 118.03 PERMIT REQUIRED; POSTING.

A person may not operate a lodging establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except

as otherwise permitted by these rules. A valid permit must be conspicuously displayed in view of the guests within a common lobby area at all lodging establishments.
(Ord. 782, passed 7-19-10)

§ 118.04 APPLICATION; RENEWAL.

(A) Any person desiring a lodging establishment permit must make a written application for a permit on forms provided by the regulatory authority. The application must contain the following:

(1) Name.

(2) Address.

(3) Phone number.

(4) Emergency contacts included, for each applicant.

(5) Physical location.

(6) Billing information and the applicable fee.

(B) An incomplete application will not be accepted. Failure to complete required information or falsifying information required may result in denial or revocation of the permit. Renewal of the permit is required on an annual basis and is the responsibility of the owner and manager of the lodging establishment both jointly and separately. The same information is required for a renewal permit as for an initial permit. New and existing lodging establishments shall be in compliance with this chapter to be issued a permit.
(Ord. 782, passed 7-19-10)

§ 118.05 INSPECTIONS.

(A) Prior to the approval of an initial permit for lodging establishments or the renewal of an existing permit, the regulatory authority shall inspect the lodging establishment to determine compliance with these rules.

(B) A lodging establishment that does not comply with these rules will not be granted a permit to operate.

(C) The regulatory authority is authorized to conduct inspections, at intervals determined by the regulatory authority, to ensure compliance with all provisions of this chapter.

(D) The lodging establishment must achieve at minimum a numerical score of 70 to pass an inspection. Demerits will be equally weighted at two points each and multiple violations of the same deficiency shall constitute one violation on the inspection form. The numerical score shall be computed by subtracting the number of demerits from 100.

(E) If a lodging establishment receives a numerical score of 69 or below, there must be immediate corrective actions taken to correct deficiencies to raise the numerical score above a 69 within the following 24-hour period to avoid possible closure.

(F) Inspections will be conducted during normal business hours unless there is a report of a contagious disease or complaint that presents an imminent threat to public health and safety. The regulatory authority shall have the right to enter at any hour upon the premises where a lodging establishment is located as deemed necessary by the Director of Health.

(G) Occupied rooms may be inspected whenever there is a reasonable risk of a health hazard or imminent threat to the structure that if uncorrected would adversely affect adjoining rooms.

(H) The regulatory authority shall have the authority to collect samples for laboratory analysis.

(I) It shall be a violation to refuse or obstruct the regulatory authority or designee from conducting inspections.
(Ord. 782, passed 7-19-10)

§ 118.06 COMPLIANCE REQUIRED; TERM; FEE.

Only persons and entities that comply with the requirements of these rules shall be entitled to receive and retain a permit required by this division. Permits to operate a lodging establishment expire one year after issuance, unless revoked or suspended for noncompliance. All lodging establishments must comply with provisions of this rule upon 30 days from passage, excluding procurement of permits which will be required on January 1, 2010. The permit fee will be paid annually to the regulatory authority at least five working days prior to expiration of the previous permit. All lodging establishments shall have a minimum of 75% of their guest rooms in a condition that meet the requirements of this subdivision in order to retain a permit to operate the lodging establishment.
(Ord. 782, passed 7-19-10)

§ 118.07 SAFETY AND SANITATION STANDARDS.

All lodging establishments shall be maintained to meet the following requirements:

(A) Lodging establishment grounds shall be free of excessive litter and have garbage properly stored in covered containers with tight fitting lids and be free of any collection of items that could harbor rodents, cockroaches or mosquitoes and:

(1) Shall have all walking and driving surfaces of the immediate exterior areas surfaced with concrete or asphalt, or other approved material to minimize dust.

(2) There shall be no conditions that constitute a public health nuisance as set forth by the State of Texas.

(3) Non-essential articles, items, or equipment that cause a public nuisance or harbors roaches, rodents or other vectors shall be removed.

(4) Outside garbage containers shall be cleaned at least monthly or as needed to prevent a nuisance or odor. Liquid waste resulting from cleaning the containers shall be disposed in a manner that does not create a nuisance.

(5) Animals shall be excluded from the laundry, linen storage, utensil washing, food service, single-service storage and ice machine areas except as provided by law.

(B) Lodging establishments shall be sealed and free of leaks and excessive water damage or mold. Construction surfaces shall be easily cleanable in good physical condition and with carpets and curtains in clean condition and free of excessive stains. Further requirements are as follows:

(1) Furnishings shall be maintained in good condition and clean. Items with excessive wear, tears, or stains shall be replaced.

(2) Each unit shall have trash removed, be vacuumed, and have smooth surfaces sanitized after each occupancy.

(3) Glasses, pitchers, ice buckets, and eating and cooking utensils in the kitchenettes shall be cleaned and sanitized after each occupancy.

(4) All rooms and bedding shall be free from an accumulation or infestation of insects or ectoparasites. If a room becomes infested with insects of any type, the room shall not be occupied until the infestation is controlled.

(5) Soap shall be provided with a dispensed liquid or with new, individually wrapped bar soap. Used bar soap shall be removed from the rooms when the guest ends the occupancy. Other toiletries provided by the lodging establishment which are opened by the guest, shall be removed when the guest ends the occupancy. Used soap and toiletries shall be discarded and shall not be used for any other purpose.

(6) A dispensed liquid soap shall be provided in all common and public bathrooms and toilets.

(7) Single service articles shall be replaced after each occupancy or when visibly damaged or the possibility of contamination exists.

(8) All toxic and hazardous substances shall be properly labeled with the common name of the content and appropriately stored to prevent contamination.

(C) Lodging establishments providing ice shall only produce ice from potable water and such shall be handled in a sanitary manner including that:

(1) Ice shall be free from visible trash and sediment.

(2) Ice shall not be made or stored in an owner's or manager's private refrigerator and/or private living areas.

(3) Ice that is not produced at the lodging establishment shall be obtained from an approved source, shall be properly labeled and protected from contamination during transportation and storage.

(4) Ice machines shall be of sanitary, durable, corrosion-resistant, and easily cleanable construction.

(5) Ice machines shall be kept sanitized and in good repair.

(6) Ice storage bins shall be drained into an approved sewage system and must have a physical air gap.

(7) When replacement of a self-service ice machine becomes necessary or additional machines are added, an automatic self-serve ice dispensing machine shall be installed.

(8) Ice machines shall be located in a place, which provides protection from the elements and possible sources of contamination. Exterior storage spaces shall provide, at a minimum, overhead protection. The area shall be kept clean and shall be free of accumulation of excessive moisture, drippage, or trash.

(9) Vending and ice machines shall be sanitized; with an ice scoop available and installed with a drain that includes a physical air gap to prevent back-siphonage. All ice machines with storage bins shall be equipped with an ice scoop that is attached to the ice bin with a tether of easily cleanable material. The tether shall be of such a length to prevent the scoop from touching the ground and maintained in a clean and sanitary condition.

(10) All lodging establishments with customer service ice machines in common areas prior to the adoption of these rules shall have automatic self service ice dispensing machines upon replacement. This requirement excludes kitchenettes and icemakers in refrigerators.

(D) All linens, towels, and laundry shall be provided in a clean sanitary condition without excessive stains or damage. In addition the following are required:

(1) During laundering; clean linens, towels, and laundry shall be kept in separate carts and stored away from soiled linens, towels, and laundry.

(2) Shall be protected from dust, dirt, vermin, or other contamination at all times.

(3) Linens shall be changed to clean linens after each occupancy in preparation for a different occupancy.

(E) Lodging establishments with non-guest laundry facilities shall be restricted to the washing and drying of linens, towels, uniforms, and aprons necessary to the operation of the lodging establishment. In addition the following are required:

(1) If such items are laundered on the premises, a commercial washing machine and dryer shall be provided and used in accordance with this section.

(2) Dryers shall be installed according to manufacturer's instructions.

(3) All lodging establishments with on premise laundries prior to adoption of these rules shall have commercial washing machines and dryers within one year after the date of the adoption of this chapter.

(4) Laundry facilities shall be separated from any other permanent living quarters by complete partitioning and solid self-closing doors.

(5) Traffic through or use by guests of the non-guest laundry facility is prohibited.

(F) Should separate laundry facilities be provided for the use of the lodging establishment guests, these shall be located in a different room or area of the lodging establishment than those provided for commercial laundry purposes. These facilities shall be clean and maintained in good repair.

(G) Fire safety of lodging establishments shall be the responsibility of the manager/operator and be in accordance with the applicable code and/or ordinance. In addition, the following are required:

(1) Shall have proper fire extinguishers available, fully charged, and have current inspections as required by current city code.

(2) Portable outside cooking grills of any type shall be no closer than ten feet from any enclosed or combustible structure.

(3) Only professionally installed and inspected cooking ranges with approved venting for kitchenettes shall be allowed in lodging establishments.

(4) Individual rooms may have a microwave oven and/or a coffee/ tea maker; kitchenettes are exempt from this limitation.

(5) Corded cooking or heating devices such as portable hot plates, or crock pots shall not the allowed in rooms. The operator shall either post signs; state this policy verbally; provide in writing during check-in procedures; or provide this information within the guest services book within each guest room to comply with this section.

(6) Storage and equipment rooms must be organized with all flammables properly labeled with common names.

(7) Rooms where fuel burning appliances are used shall be properly vented in accordance with the manufacturers' specifications and carbon monoxide monitors shall be provided in these rooms.

(8) Rooms shall have and maintain, in operating condition, an approved battery or electrically operated smoke detector device in each guest room. Owner and operators shall be required to test each smoke detector at a minimum of two times each calendar year to determine if each detector is in working order. Records of the testing shall be maintained and provided to the public health inspector upon request.

(9) Emergency phone numbers including 9-1-1, fire, police, and first aid equipment must be available at the front desk.

(10) Records shall be kept of all accidents or injuries of guests and employees that occur on the premises of a lodging establishment.

(H) Should swimming pools, spas, and similar facilities be installed; they shall be constructed and maintained in accordance with the applicable code. Swimming pool water shall only be disposed of into an approved sanitary sewer.

(I) Insect and rodent control, in all lodging establishments, shall be kept in such a condition as to prevent the harborage or feeding of insects or rodents. Windows shall be screened and be in good condition without cracks or missing seals and shall be in good working order. Screening material shall be 16 mesh to the inch. Rooms with infestations of insects or rodents shall be subject to closure until treatment has been deemed effective by the regulatory authority. A licensed exterminator company shall provide routine treatment of a lodging establishment and receipts shall be kept on file.

(J) Lodging establishments shall, in general, be kept in a clean and sanitary condition, in good repair, and shall be maintained and

operated with strict regard to health and safety of the transient or permanent guest. Extended stay guests at all lodging establishments shall be moved to a new room after seven days to allow cleaning and sanitization of the guest room and bathroom if maid service is not provided at a minimum of once per week or facility repairs are necessary to adhere to these rules.

(K) Records shall be kept for a period of no less than 90 days of the cleaning frequency of rooms that are used for extended guests stays; noting last cleaning performed and any room damage or repairs.
(Ord. 782, passed 7-19-10)

§ 118.08 POTABLE DRINKING WATER APPROVED SOURCE.

(A) An adequate, accessible supply of potable drinking water approved by the Texas Commission on Environmental Quality shall be provided at all lodging establishments.

(B) Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(C) Water from a source other than a public water supply shall not be used until the department or other state regulatory authority has approved it.
(Ord. 782, passed 7-19-10)

§ 118.09 APPROVED SEWAGE.

(A) Sewage and wastewater treatment and disposal shall be accomplished in a manner so as to not create a health hazard, pollute or contaminate groundwater, or create a nuisance. This includes draining swimming pool water and while performing plumbing repairs of any kind.

(B) Sewage and wastewater treatment systems with a discharge shall be installed and maintained in compliance with the state laws and local ordinances.
(Ord. 782, passed 7-19-10)

§ 118.10 PERSONNEL.

(A) No employee of a lodging establishment, while infected with a contagious disease that can be transmitted to other employees or the guests, or who is a carrier of organisms that cause such a disease, or who is affected with a boil, an infected wound or acute respiratory infection shall work in a lodging establishment in any capacity in which there is a likelihood of such an employee contaminating ice, clean linens, or single service articles with pathogenic organisms or transmitting the disease to other persons.

(B) Employees working with and handling single service items, such as clean laundry, ice or beverages or performing tasks that would contaminate their hands shall thoroughly wash their hands and exposed areas of their arms before starting work, after smoking, eating or using the toilet. Employees shall keep their fingernails trimmed evenly and clean.

(C) Employees involved in guest services and housekeeping functions shall wear clean clothing, which is in good repair. When performing cleaning functions that could bring the employee into contact with guest's bodily fluids, the employee shall be provided protective gloves for optional use.
(Ord. 782, passed 7-19-10)

§ 118.11 PROCEDURES WHEN INFECTION IS SUSPECTED.

(A) When the regulatory authority has reasonable cause to suspect possible contagious disease transmission by an employee of a lodging establishment, it shall immediately secure a medical history of the suspected employee, make other investigations as necessary, and notify the state epidemiologist. The regulatory authority may require any or all of the following measures and any other measures, which is deemed necessary for the protection of the public health:

(1) The immediate exclusion of the employee from employment in lodging establishments.

(2) The immediate closure of the lodging establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists. Immediate suspension initiated without a hearing shall only occur upon personal order of the director of the Wichita Falls-Wichita County Public Health District.

(3) The restriction of the employee's services to specific areas of the lodging establishment operations where there would be no danger of transmitting disease.

(4) Adequate medical and laboratory examination of the employee and other lodging establishment employees including collection of appropriate medical specimens.

(B) When the regulatory authority has reasonable cause to suspect possible contagious disease transmission by a guest of a lodging establishment, the guest room shall not be occupied again until the regulatory authority has given its approval. The lodging establishment manager shall follow the regulatory authorities' instructions with respect to required cleaning and disinfection of the guest room, bathroom, furnishings, and equipment or the temporary removal of furnishings and equipment.

(C) The regulatory authority may require the immediate closure of any lodging establishment or any portion of a lodging establishment,

after proper notice has been given, if just cause to suspect the possibility of transmission of disease or other public health hazard will result from the operation of the lodging establishment or a particular portion of the lodging establishment. Immediate suspension initiated without a hearing shall only occur upon order of the director of the Wichita Falls-Wichita County Public Health District.
(Ord. 782, passed 7-19-10)

§ 118.12 POISONOUS OR TOXIC CHEMICAL MATERIALS.

(A) There shall be present in lodging establishments only those poisonous or toxic chemical materials necessary for maintaining and cleaning the premises, maintaining the landscaped ground, maintaining the swimming pool/spa(s), washing linens and towels, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

(B) All containers of chemical materials shall be prominently and distinctly labeled for easy identification and use of the contents.

(C) All chemical materials shall have the appropriate material safety data sheet; (MSDS) kept on file for emergency use.

(D) Storage of materials:

(1) Poisonous or toxic materials consist of the following categories:

(a) Insecticides and rodenticides.

(b) Detergents, sanitizers and related cleaning or drying agents, caustics, acids, polishes and other chemicals.

(c) Landscaping materials.

(2) Each of the three material categories shall be stored separately and kept in chemical cabinets, separate rooms or physically located away from each other to prevent mixing and possible contamination. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above ice, linens, towels, utensils, or single-service articles, except that this requirement does not prohibit the convenient availability of detergents and sanitizers at utensil or dishwashing stations, or laundry compounds in the vicinity of washing machines or dryers.

(E) Use of materials.

(1) Bactericides, cleaning compounds or other chemicals intended for use on food, beverage, or ice contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that creates a hazard to employees or other persons.

(2) Poisonous or toxic materials shall not be used in a way that contaminates ice, linens, towels, single-service articles or utensils, nor in a way that constitutes a hazard to guests, employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(F) Personal articles and medications shall be stored in employee lockers or away from ice, linens, towels, single-service articles or utensils that could become contaminated.

(G) First aid supplies shall be stored away from ice, linens, towels, single-service articles or utensils that could become contaminated.
(Ord. 782, passed 7-19-10)

§ 118.13 SUSPENSION.

(A) The regulatory authority may, without warning, notice, or hearing, suspend any permit to operate a lodging establishment if, the operation of the establishment constitutes an imminent health hazard to public health. A supervisor will confirm the hazard before suspension is effective when possible.

(B) Whenever a permit is suspended because of non-compliance or failure to maintain inspection minimum standards the holder of the permit or person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended.
(Ord. 782, passed 7-19-10)

§ 118.14 APPEAL.

(A) Opportunity for a hearing will be provided if the holder of the permit files a written request with the regulatory authority within ten days. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing as soon as possible and not to exceed 20 days of receipt of the request for a hearing. If no written request for a hearing is filed within ten days, the suspension is sustained.

(B) The regulatory authority may end the suspension at any time if reasons for the suspension no longer exist.
(Ord. 782, passed 7-19-10)

§ 118.15 REVOCATION OF PERMIT.

The regulatory authority may, after providing for a hearing, revoke a lodging establishment permit for serious or repeated violations of any of the requirements of this division or for interference with agents of the regulatory authority in the performance of their 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. The permit shall be revoked

at the end of ten days following service of such notice unless the holder of the permit files a written request for a hearing with the regulatory authority within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the permit becomes final.
(Ord. 782, passed 7-19-10)

§ 118.16 SERVICE OF NOTICE: CONDUCT OF HEARINGS.

(A) A notice as required in this subdivision is properly served when it is hand delivered to the general manager and a copy 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 regulatory authority shall conduct the hearings provided for in this subdivision at a time and location designated by the director of health. The hearing shall be conducted before a panel including the assistant director of health, who shall preside over the meeting, the health district's director of nursing, and a hotelier chosen by the city manager. This panel shall conduct the hearing with evidence presented by the inspection staff and by the involved lodging property staff to determine whether to recommend sustaining, modifying, or rescinding any order recommended by the general environmental division. The recommendation of the panel shall be conveyed to the director of health for his or her consideration and based upon the recorded evidence of such hearing; the director of health shall make final findings and shall sustain, modify or rescind any notice or order considered in the hearing. The director of health shall furnish a written report of the hearing to the holder of the permit.
(Ord. 782, passed 7-19-10)

§ 118.99 PENALTY.

(A) A person commits a Class C misdemeanor if the person violates any part of this subdivision after being given a 72-hour notification of continual violations or allows conditions deemed an imminent health hazard. In accordance with Tex. Loc. Govt Code § 54.001(b), an offense under this chapter is a misdemeanor punishable by a fine not to exceed $2,000.00.

(B) Each day of a continuing violation is a separate offense.
(Ord. 782, passed 7-19-10)

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PROPERTY

131. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

132. DRUG CONTROL

CHAPTER 130: OFFENSES AGAINST PROPERTY

Section

130.01 Destroying, defacing public, and private property
130.02 Trespassing
130.03 Pasting stickers on vehicles without consent of owner

130.99 Penalty

§ 130.01 DESTROYING, DEFACING PUBLIC, AND PRIVATE PROPERTY.

(A) For the purpose of this section, "DEFACING" shall mean the throwing on, or into, the below described properties of any rubbish or material whatsoever, which does or might damage such property.

(B) It shall be unlawful to injure, tamper, break, destroy or deface, or assist in injuring, breaking, destroying, or defacing, any bridge, fence, building, schoolhouse, church, depot, swimming pool, water tower, or other public or private building or structure, street sign, lamp post, electric line or pole, electrical lamp or any appurtenance thereto, alarm box, hydrant or any other public or private property within the city without the consent of the owner thereof or other person in charge of such property.

(C) It shall be unlawful to use skate boards and/or roller blades on Commercial buildings, school campuses, churches, or other public or private buildings without the consent of the owner or property custodian.
(Ord. 255, passed 7-24-61; Am. Ord. 679, passed 7-19-04) Penalty, see § 130.99

§ 130.02 TRESPASSING.

No person shall enter or attempt to enter upon the land of another without consent of the owner, proprietor, lessee, or person in charge thereof.
(Ord. 264, passed 12-3-62) Penalty, see § 130.99

§ 130.03 PASTING STICKERS ON VEHICLES WITHOUT CONSENT OF OWNER.

It shall be unlawful for any person, firm, or corporation, within the corporate limits of the city to stick or paste any sticker, paper, cardboard, or cloth upon the windshield or any other part of a motor vehicle, or upon any other vehicle using the streets of the city, without first obtaining the express consent of the owner of that motor vehicle or other vehicle.
(Ord. 160, passed 2-1-26) Penalty, see § 130.99

§ 130.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter, shall upon conviction, be fined not more than $200.

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE AND SAFETY

Section

General Provisions

131.01 Curfew hours for minors
131.02 Public intoxication

Weapon Control

131.15 Discharge of weapons
131.16 Shooting or throwing missiles

131.99 Penalty

GENERAL PROVISIONS

§ 131.01 CURFEW HOURS FOR MINORS.

(A) Definitions. In this section:

"CURFEW HOURS." That period of time between:

(a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 6:00 a.m. of the following day; and

(b) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

"EMERGENCY." An unforeseen combination of circumstances or the resulting state that calls for immediate action to prevent serious bodily injury or loss of life and includes, but is not limited to, a fire, a natural disaster, and automobile accident.

"ESTABLISHMENT." Any privately owned place of business to which the public is invited or generally has access, and the "premises" of an establishment includes the structure where the business is operated, any structures adjacent thereto and any parking lot, sidewalk or common area associated with a particular business. An establishment includes any place of amusement or entertainment.

"GUARDIAN." A person or public or private agency who has been appointed as the guardian of the person of a minor child by a court of this or any other state.

"MINOR." Any person under 17 years of age.

"OPERATOR." An individual, firm, association, partnership, or corporation, operating, managing, or conducting any establishment. The

term includes the member or partners of an association or partnership and the officers of a corporation.

"PARENT." A person:

(a) Who is a natural or adoptive parent or step-parent of a minor; or

(b) Who has been appointed by a court as a conservator of a minor and has the duty of care, control, protection, and reasonable discipline of a minor at the time of any alleged violation of this section; or

(c) Who is at least 18 years of age and authorized by a parent, guardian or conservator of the minor to have the care or custody of a minor at the time of any alleged violation of this section.

"PUBLIC PLACE." Any place to which the public or a substantial group of the public generally has access and includes, but is not limited to streets, highways, sidewalks, parks, vacant lots and parking lots (whether owned by a private person or by a governmental entity), any part of school premises including athletic fields or facilities, athletic fields or facilities (whether owned or operated by private persons or organizations or by a governmental entity), public swimming pools, and the common areas of hospitals, apartment houses, office building, transport facilities, and shops.

"REMAIN." To:

(a) Linger or stay; or

(b) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

"SERIOUS BODILY INJURY." Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) Offenses.

(1) A minor commits an offense if he or she is present, or remains, in any public place or on the premises of any establishment within the city during curfew hours, including any public place or the premises of any establishment which was not open to the public at the time of any alleged violation of this subsection.

(2) A parent or guardian of a minor commits an offense if the parent or guardian knowingly permits, or by insufficient control allows, a minor to remain in any public place or on the premises of any establishment within the city during curfew hours including any public place or the premises of any establishment which was not open to the public at the time of any alleged violation of this subsection.

(3) The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) Defenses.

(1) It is a defense to prosecution under division (B) that the minor was:

(a) Accompanied by the minor's parent or guardian;

(b) In a motor vehicle involved in interstate travel;

(c) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;

(d) Involved in an emergency;

(e) On the sidewalk or front yard 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;

(f) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning home from any such event without any detour or stop;

(g) Exercising First Amendment rights protected by the United States Constitution;

(h) Married or had disabilities of minority removed in accordance with Chapter 31 of the TEXAS FAMILY CODE; or

(i) Attending an activity meeting the following criteria:

1. The activity is supervised by adult sponsors who take responsibility for the minors in attendance so that a minor

may not leave the premises where the activity is held without a parent or guardian who gave permission for the minor to attend the activity; and

2. All ingress and egress to the facility where the activity is held is controlled by the adult sponsor(s) throughout the duration of the activity to ensure that all minors are in the premises where the activity is held.

(2) It is a defense to prosecution under division (B)(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.

(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 in division (C) is present.

(E) Penalties.

(1) A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed $500.

(2) When required by § 51.08 of the TEXAS FAMILY CODE, as amended, the municipal court shall waive original jurisdiction over a minor who violates division (B)(1) of this section and shall refer the minor to juvenile court.
(Ord. 669, passed 3-15-04; Am. Ord. 777, passed 3-15-10; Am. Ord. 837, passed 7-15-13; Am. Ord. 901, passed 7-11-16)

§ 131.02 PUBLIC INTOXICATION.

(A) For the purpose of this section "PUBLIC PLACE" shall include an automobile.

(B) It shall be unlawful for any person drunk or in a state of intoxication to be in any public place.
(Ord. 255, passed 7-24-61) Penalty, see § 131.99

WEAPON CONTROL

§ 131.15 DISCHARGE OF WEAPONS.

It shall be unlawful to discharge any firearm, airgun, beebee gun, or any toy gun, projecting lead or any missiles within the corporate limits of the city; provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty; nor to any citizen from discharging a firearm when lawfully defending person or property. Whoever shall violate this section shall be guilty of a Class C misdemeanor.
(Ord. 426, passed 1-20-86) Penalty, see § 131.99

§ 131.16 SHOOTING OR THROWING MISSILES.

(A) It shall be unlawful for any person to shoot from any kind of sling or bow, air gun, or gun of any other kind or name, any missile of any kind, or throw a stone or any other missile in, along, or across any street or alley, or upon or across the property of any other person within the corporate limits of the city.

(B) It shall be unlawful for any person to shoot any of the above aforementioned objects on his real property within the city, if the possibility exists that any of the above mentioned objects could extend beyond his property boundaries causing bodily injury or property damage.
(Ord. 425, passed 1-20-86) Penalty, see § 131.99

§ 131.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not exceeding $200.

CHAPTER 132: DRUG CONTROL

Section

General Provisions

132.01 Inhaling, drinking, or breathing of certain substances prohibited

Drug Paraphernalia

132.15 Definitions
132.16 Determination of object as drug paraphernalia
132.17 Use of drug paraphernalia prohibited
132.18 Advertising sale of drug paraphernalia prohibited
132.19 Illegal smoking products and ingestion devices

132.99 Penalty

GENERAL PROVISIONS

§ 132.01 INHALING, DRINKING, OR BREATHING, OF CERTAIN SUBSTANCES PROHIBITED.

(A) No person shall inhale, breathe, or drink any compound, liquid, chemical, or substance known as glue, adhesive cement, mucilage, dope, or any other material or substance or combination thereof, with intent of becoming intoxicated, elated, dazed, paralyzed, irrational, or in any other manner changing, distorting, or disturbing the eyesight, thinking process, judgment, or coordination of such person. For the purpose of this section, any such condition so induced shall be deemed to be an intoxicated condition.

(B) The provisions of this section shall not pertain to any person who inhales, breathes, or drinks such material or substance pursuant to the direction or prescription of any doctor, physician, or surgeon, dentist, or podiatrist authorized to so direct or prescribe. The provisions of this section shall not pertain to any person who inhales, breathes, or otherwise in any manner uses intoxicating liquor as defined by the Texas Liquor Control Act of the state, nor shall the provisions of this section apply to any persons who inhale, breathe, drink, or otherwise in any manner use any narcotic, dangerous drug, or other material or substance or combination thereof, which material or substance or combination thereof is defined by the use of and which is prohibited or regulated by any law of the state.

(C) The intent to commit the offense set out in this section is presumed whenever the means used is such as would ordinarily result in the commission of the forbidden act.
(Ord. 274, passed 12-6-65) Penalty, see § 132.99

DRUG PARAPHERNALIA

§ 132.15 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"DRUG PARAPHERNALIA." All equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, texting, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act of the state. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances,

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(f) Miniature cocaine spoons, and cocaine vials;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums,

(l) Bongs; and

(m) Ice pipes or chillers.

(Ord. 377, passed 8-18-80)

§ 132.16 DETERMINATION OF OBJECT AS DRUG PARAPHERNALIA.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(A) Statements by an owner or by anyone in control of the object concerning its use;

(B) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any

controlled substances;

(C) The proximity of the object, in time and space, to a direct violation of the Controlled Substances Act of the state;

(D) The proximity of the object to controlled substances;

(E) The existence of any residue of controlled substances on the objects;

(F) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of the Controlled Substances Act of the state. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Controlled Substances Act of the state shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(G) Instruction, oral or written, provided with the object concerning its use;

(H) Descriptive materials accompanying the object which explain or depict its use;

(I) National and local advertising concerning its use;

(J) The manner in which the object is displayed for sale;

(K) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products,

(L) Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;

(M) The existence and scope of legitimate uses for the object in the community; and

(N) Expert testimony concerning its use.
(Ord. 377, passed 8-18-80)

§ 132.17 USE OF DRUG PARAPHERNALIA PROHIBITED.

(A) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act of the state.

(B) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate,

grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act of the state. (Ord. 377, passed 8-18-80) Penalty, see § 132.99

§ 132.18 ADVERTISING SALE OF DRUG PARAPHERNALIA PROHIBITED.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
(Ord. 377, passed 8-18-80) Penalty, see § 132.99

§ 132.19 ILLEGAL SMOKING PRODUCTS AND INGESTION DEVICES.

(A) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ILLEGAL SMOKING PRODUCT." Any plant other substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following substances or chemicals:

(a) Salvinorin A: Contained within the Salvia Divinorum plant, whether growing or not; or possessed as an extract, compound, manufacture, derivative, mixture, or preparation of the plant;

(b) 2-[(IR, 3S)-3-hydroxycyclohexyl]-5-(2-methylocatan-2-yl) phenol (also known ad CP 47, 497) and homologues;

(c) I-Pentyl-3-(I-naphtholy) indole (also known as JWH-OI8);

(d) Butyl-3-(I-naphthoyl) indole (also known as JWH-073).

"INGESTION DEVICE." Equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:

(a) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;

(b) A water pipe;

(c) A carburetion tube or device;

(d) A smoking or carburetion mask;

(e) A chamber pipe;

(f) A carburetor pipe;

(g) An electric pipe;

(h) An air-driven pipe;

(i) A chillum;

(j) A bong; or

(k) An ice pipe or chiller.

"PERSON." An individual, corporation, partnership, wholesaler, retailer or any licenses or unlicensed business.

(B) Violation.

(1) It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.

(2) It shall be unlawful for any person to use or possess an ingestion device with the intent to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

(3) Any person found to be violating any term or provision of this section, shall be subject to a fine in accordance with § 132.99 of the Code of Ordinances of the city for each offense. Every day a violation continues shall constitute a separate offense.

(4) Allegation and evidence of a culpable mental state is not required for proof of an offense defined by this chapter.

(C) Affirmative defense.

(1) It shall be an affirmative defense for a person charged with an offense for possession or use of an illegal smoking product that the use or possession was pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe the act.

(2) It shall not be a violation of this section if the sale or possession of Salvinorin A was in conjunction with ornamental landscaping and used solely for that purpose.
(Ord. 831, passed 1-21-13)

§ 132.99 PENALTY.

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than $200. Each day any violation of this chapter continues shall constitute a separate offense.

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. ELECTRICAL CODE

152. FLOOD DAMAGE PREVENTION

153. OIL AND GAS DRILLING

154. PLUMBING CODE

155. SUBDIVISION REGULATIONS

CHAPTER 150: BUILDING REGULATIONS

Section

Codes Adopted by Reference

150.01 Standard codes adopted by reference

Dangerous Buildings

150.35 Definitions
150.36 Regulation of dangerous structures
150.37 Maintaining existence of dangerous building prohibited
150.38 Notification upon determination
150.39 Hearings before the Board of Commissioners
150.40 Upon declaration of substandard building
150.41 Demolition of building

150.99 Penalty

Cross reference:
Building and house address numbers, see §§ 93.20 through 93.22

CODES ADOPTED BY REFERENCE

§ 150.01 STANDARD CODES ADOPTED BY REFERENCE.

The following codes are hereby adopted in their 2015 editions by reference as though they were copied herein fully:

Subchapter A, Chapter 214, Texas Local Government Code
International Codes
International Building Code (IBC)
International Fire Code (IFC)
International Energy Conservation Code (IFCC)
International Fuel Gas Code (IFGC)
International Property Maintenance Code (IPMC)
International Plumbing Code (IPC)
International Mechanical Code (IMC)
International Residential One/Two Family Dwellings
Electrical Code Administrative Provision

(Ord. 595, passed 8-21-00; Am. Ord. 910, passed 12-19-16)

DANGEROUS BUILDINGS

§ 150.35 DEFINITIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"DANGEROUS BUILDING." Shall mean:

(a) Any building, shed, fence, or other man-made structure which is dangerous to the public health because of its condition, and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;

(b) Any building, shed, fence, or other man-made structure which, because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire and constitutes or creates a fire hazard;

(c) Any building, shed, fence, or other man-made structure which, by reason of faulty construction or any other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure;

(d) Any building, shed, fence, or other man-made structure which, because of its condition or its lack of doors or windows, is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure;

(e) Any building, shed, fence, or other man-made structure which has a foundation that is not so free of holes, cracks, buckling, crumbling, and defects as to support adequately the structure; or

(f) Any building, shed, fence, or other man-made structure which exists in violation of any provision of the building code of the city or other ordinances of the city.

(B) Any such dangerous building in the city is hereby declared to be a public nuisance.
(Ord. 419, passed 7-15-85; Am. Ord. 512, passed 8-16-93; Am. Ord. 910, passed 12-19-16)

§ 150.36 REGULATION OF DANGEROUS STRUCTURES.

(A) As authorized by Chapter 214 of the Texas Local Government Code, the city requires the vacation, relocation of occupants, securing, repair, removal, or demolition of a building that is:

(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 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 division (A)(2) above.

(B) Any such structure in the city is hereby declared to be a public nuisance.

(C) The city hereby implements Chapter 214 of the Texas Local Government Code for enforcement of health and safety ordinances.
(Ord. 910, passed 12-19-16) Penalty, see § 150.99

§ 150.37 MAINTAINING EXISTENCE OF DANGEROUS BUILDING PROHIBITED.

(A) It shall be unlawful to maintain or permit the existence of any dangerous building in the city; and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

(B) As authorized by Chapter 214 of the Texas Local Government Code, the city may secure a building it determines violates the minimum standards and is unoccupied, or is occupied only by persons who do not have a right of possession to the building.
(Ord. 910, passed 12-19-16) Penalty, see § 150.99

§ 150.38 NOTIFICATION UPON DETERMINATION.

(A) Whenever the Code Enforcement Officer shall be of the opinion that any building or structure in the city is a dangerous building, he or she shall issue a written notice to all property owners, lienholders, or registered agents, stating the building has been declared to be in a dangerous condition; that the owner, lienholder, and/or mortgagee may appear at a public hearing before the Board of Commissioners to determine whether the building complies with the standards set out in this subchapter; and that the owner, lienholder, and/or mortgagee will be required to submit proof of the scope of any work that may be required to comply with this subchapter and the time it will take to reasonably perform the work.

(B) The Code Enforcement Officer will search the following records to determine the identity and address of each property owner, lienholder, or registered agent:

(1) County real property records;

(2) County appraisal district records;

(3) Records of the Secretary of State if the property owner, lienholder, or registered agent is a corporation, partnership, or other business association;

(4) County assumed name records;

(5) City tax records; and

(6) City utility records.

(C) The notice will be sent to the record owners of the affected property, and each holder of recorded lien against the affected property, as shown by the records in the office of the County Clerk of the county in which the affected property is located, if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the County Clerk;

(D) The notice will be given as follows:

(1) By personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the County Clerk if the address of the lien holder can be ascertained;

(2) To all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable; and

(3) By publication in a newspaper of general circulation in the municipality on one occasion on or before the tenth day before the date fixed for the hearing.

(E) The notice must be posted and either personally delivered or mailed on or before the tenth day before the date of the hearing before the commission panel, and must state the date, time, and place of the hearing.

(F) The notice must include a statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this subchapter, and the time it will take to reasonably perform the work.

(G) The notice sent to the owner shall include the following statement: "According to the real property records of Wichita County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to this office not later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not."

(H) When the notice is mailed in accordance with this section to a property owner, lienholder, or registered agent, 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. 910, passed 12-19-16)

§ 150.39 HEARINGS BEFORE THE BOARD OF COMMISSIONERS.

(A) The Code Enforcement Officer, or his or her designee, shall file and present all cases to the Board of Commissioners on behalf of the city.

(B) The Board of Commissioners shall consider the charges presented by the Code Enforcement Officer, or his or her designee, and the response presented by the respondents or persons opposing charges brought by the Code Enforcement Officer, relating to alleged violations of this subchapter. After consideration of the evidence and testimony, the Board of Commissioners may:

(1) Dismiss the charges brought by the Code Enforcement Officer or his or her designee;

(2) Order the repair, within a fixed period of time, generally within 30 days, of structures found to be in violation of this subchapter;

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

(b) If the owner, lienholder, or mortgagee establishes at the hearing that the work cannot be reasonably completed within 90 days, the Commission may allow more than 90 days to repair, remove, or

demolish the building, provided the owner, lienholder, or mortgagee submits a detailed plan and time schedule for the work at the hearing, and the Commission orders regular progress reports to be submitted by the owner, lienholder, or mortgagee to demonstrate compliance with the submitted time schedules. If the owner, lienholder, or mortgagee owns property within the municipal boundaries that exceeds $100,000 in total value, the Commission may require the owner, lienholder, or mortgagee to post a cash or surety bond or a letter of credit from a financial institution or guaranty from a third party approved by the municipality in an amount adequate to cover the costs of repairing, removing, or demolishing the building.

(3) Declare the building substandard in accordance with the powers granted by this subchapter;

(4) Order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure removal if it is determined the conditions exist on the property that constitute a violation of this subchapter, and order action to be taken as necessary to remedy, alleviate, or remove any substandard structure found to exist in violation of this subchapter;

(5) Issue orders or directives to any peace officer of the state, including a Sheriff or a Constable or the Chief of Police, to enforce and carry out the lawful orders or directives of the Board of Commissioners; and/or

(6) Determine the amount and duration of the civil penalty to be assessed against the owner of the property and/or structure.

(C) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of the city may present a petition to the County District Courts pursuant to § 214.0012 of the Texas Local Government Code.
(Ord. 910, passed 12-19-16)

§ 150.40 UPON DECLARATION OF SUBSTANDARD BUILDING.

(A) Upon declaration by the Board of Commissioners that a building is substandard, a notice shall be placed on the dangerous building to read as follows:

> "This building has been found to be a dangerous building by the Board of Commissioners. This notice is to remain on this building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner. It is unlawful to remove this notice until such notice is complied with."

(B) The Board of Commissioners, or its designee, will have sent by personal delivery, or by certified mail, return receipt requested, to each owner, lienholder, or mortgagee of record, a copy of the final decision of the Board of Commissioners. Additionally, within ten calendar days after the date of mailing the decision to the owner, lienholder, or mortgagee of record, the Board of Commissioners, or its designee, shall cause to be published one time, in a newspaper of general circulation in the municipality, an abbreviated copy of the order, including the street address or legal description of the property, the date of the hearing, a brief statement of the results of the order, and instructions stating where a complete copy of the order may be obtained. The Board of Commissioners, or its designee, will also file a copy of its decision with the Municipal Clerk.
(Ord. 910, passed 12-19-16)

§ 150.41 DEMOLITION OF BUILDING.

(A) If the building is declared substandard and is not vacated, secured, repaired, removed, or demolished, or the occupants are not relocated within the allotted time, the municipality may vacate, secure, remove, or demolish the building, or relocate the occupants, and assess the expenses or file a lien against the property on which the building was located, unless the property is properly designated as a homestead.

(B) Nothing contained herein shall be deemed a limitation on the ability of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of the building or structure is necessary to the preservation of life and property in the city. In the event it is necessary during a fire or immediately after a fire that an emergency exists, and the city has to contract with some company or individual for equipment to demolish or tear down the walls of a building or the building itself, where the fire exists or immediately after the fire, the cost of having hired such equipment to perform such duties shall be charged to and paid by the owner of the premises, and charged as a lien upon the real property on which the building or buildings are situated.
(Ord. 910, passed 12-19-16)

§ 150.99 PENALTY.

(A) The Board of Commissioners may assess a civil penalty for failure to comply with its orders issued under the authority of §§ 150.35 through 150.41. The civil penalty may not exceed $1,000 per day, or $10 per day if the property is the owner's lawful homestead. The civil penalty shall be enforced as provided in § 214.0015 of the Texas Local Government Code.

(B) The Board of Commissioners' assessment of civil penalties for violations of §§ 150.35 through 150.41 does not affect the city's ability to proceed under the jurisdiction of the municipal court. (Ord. 419, passed 7-15-85; Am. Ord. 512, passed 8-16-93; Am. Ord. 910, passed 12-19-16)

CHAPTER 151: ELECTRICAL CODE

Section

151.01 National Electric Code adopted by reference

§ 151.01 NATIONAL ELECTRIC CODE ADOPTED BY REFERENCE.

The National Electric Code of NFPA-70 in its most recent edition is hereby adopted by reference, and all regulations, parts, notations, references and specifications therein are hereby adopted and made a part of this subchapter.
(Ord. 532, passed 11-21-94; Am. Ord. 595, passed 8-21-00)

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CHAPTER 152: FLOOD DAMAGE PREVENTION

Section

General Provisions

152.01 Statutory authorization
152.02 Findings of fact
152.03 Statement of purpose
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152.34 Floodways

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GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, § 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.
(Ord. 773, passed 1-18-10)

§ 152.02 FINDINGS OF FACT.

(A) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
(Ord. 773, passed 1-18-10)

§ 152.03 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:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

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

(G) Insure that potential buyers are notified that property is in a flood area.
(Ord. 773, passed 1-18-10)

§ 152.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter uses the following methods:

(A) 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;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other development which may increase flood damage;

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
(Ord. 773, passed 1-18-10)

§ 152.05 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." Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

"APEX." A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"APPURTENANT STRUCTURE." A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

"AREA OF FUTURE CONDITIONS FLOOD HAZARD." The land area that would be inundated by the 1% annual chance (100 year) flood based on future conditions hydrology.

"AREA OF SHALLOW FLOODING." A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a I percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"AREA OF SPECIAL FLOOD HAZARD." The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, Vl-30, VE or V.

"BASE FLOOD." The flood having a 1% 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 1% chance of equaling or exceeding that level in any given year - also called the "Base Flood."

"BASEMENT." Any area of the building having its floor subgrade (below ground level) on all sides.

"BREAKAWAY WALL." A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"CRITICAL FEATURE." An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

"DEVELOPMENT." Any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"ELEVATED BUILDING." For insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

"EXISTING CONSTRUCTION." For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "EXISTING CONSTRUCTION" may also be referred to as "existing structures."

"EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." A manufactured home park or subdivision for which the construction of facilities for

servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION." 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." A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

"FLOOD ELEVATION STUDY." An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

"FLOOD INSURANCE RATE MAP (FIRM)." An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY (FIS)." See Flood Elevation Study.

"FLOODPLAIN OR FLOOD-PRONE AREA." Any land area susceptible to being inundated by water from any source (see definition of flooding).

"FLOODPLAIN MANAGEMENT." The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"FLOODPLAIN MANAGEMENT REGULATIONS." Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"FLOOD PROTECTION SYSTEM." Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"FLOOD PROOFING." Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"FLOODWAY." See "REGULATORY FLOODWAY."

"FUNCTIONALLY DEPENDENT USE." A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"HIGHEST ADJACENT GRADE." The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"HISTORIC STRUCTURE." Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory 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." A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"LEVEE SYSTEM." A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"LOWEST FLOOR." The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking 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 § 60.3 of the National Flood Insurance Program regulations (Title 44 of the Code of Federal Regulations).

"MANUFACTURED HOME." A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"MANUFACTURED HOME PARK OR SUBDIVISION." A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"MEAN SEA LEVEL." For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"NEW CONSTRUCTION." For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"NEW MANUFACTURED HOME PARK OR SUBDIVISION." A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"RECREATIONAL VEHICLE." A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"REGULATORY FLOODWAY." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"RIVERINE." Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

"SPECIAL FLOOD HAZARD AREA." See "Area of Special Flood Hazard."

"START OF CONSTRUCTION." (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as

dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"STRUCTURE." For floodplain 'management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"SUBSTANTIAL DAMAGE." Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT." Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"VARIANCE." A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see § 60.6 of the National Flood Insurance Program regulations - Title 44 of the Code of Federal Regulations).

"VIOLATION." The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 C.F.R. § 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." The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where

specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 773, passed 1-18-10)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

The chapter shall apply to all areas of special flood hazard with the jurisdiction of the city.
(Ord. 773, passed 1-18-10)

§ 152.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific arid engineering report entitled, "The Flood Insurance Study (FIS) for Wichita County, Texas and incorporated areas," dated February 3, 2010, with accompanying Flood Insurance Rate Maps dated February 3, 2010, and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.
(Ord. 773, passed 1-18-10)

§ 152.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.
(Ord. 773, passed 1-18-10)

§ 152.09 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. 773, passed 1-18-10)

§ 152.10 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. 773, passed 1-18-10)

§ 152.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. 773, passed 1-18-10)

§ 152.12 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. 773, passed 1-18-10)

ADMINISTRATION

§ 152.20 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The City Manager or the City Manager's designee 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. 773, passed 1-18-10)

§ 152.21 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(A) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.

(B) 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.

(C) Review, approve or deny all applications for development permits required by adoption of this chapter.

(D) 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.

(E) 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.

(F) 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.

(G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(H) When base flood elevation data has not been provided in accordance this § 152.21 of this chapter (Basis for Establishing the Areas of Special Flood Hazard), the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and flobdway data available from a Federal, State or other source, in order to administer the provisions of §§ 152.60 through 152.65 of this Chapter (Provisions For Flood Hazard Reduction).

(G) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(H) Under the provisions of 44 CFR Chapter 1, § 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by 44 C.F.R. §65.12.
(Ord. 773, passed 1-18-10)

§ 152.22 PERMIT PROCEDURES.

(A) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodprooflng criteria of § 152.61(2) of this chapter (Specific Standards - Nonresidential Construction);

(4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(5) Maintain a record of all such information in accordance with § 152.41(1) of this chapter (Duties and Responsibilities of the Floodplain Administrator);

(B) Approval or denial of a floodplain development permit by the Flooplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
(Ord. 773, passed 1-18-10)

§ 152.23 VARIANCE PROCEDURES.

(A) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.

(B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(C) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(E) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.

(F) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in § 152.22(B) of this chapter (Permit Procedures) have been fully

considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(G) Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (as stated in § 152.03 of this chapter, Statement of Purpose).

(H) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(I) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(J) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) Showing a good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(K) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that

(1) The criteria outlined in § 152.44 (A) - (K) of this chapter (Variance Procedures) are met, and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
(Ord. 773, passed 1-18-10)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 152.30 GENERAL STANDARDS.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

(A) 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;

(B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(D) 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;

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(F) 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,

(G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
(Ord. 773, passed 1-18-10)

§ 152.31 SPECIFIC STANDARDS.

(A) In all areas of special flood hazards where base flood elevation data has been provided as set forth in:

(1) § 152.21 of this chapter (Basis for Establishing the Areas of Special Flood Hazard);

(2) § 152.41(g) of this chapter (under Duties and Responsibilities of the Floodplain Administrator); or

(3) § 512.62(C) of this chapter (under Standards for Subdivision Proposals);

(B) The following provisions are required:

(1) Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standards of this Chapter are satisfied.

(2) Nonresidential Construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two feet above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured homes.

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

1. Outside of a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes 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 this division be elevated so that either:

1. The lowest floor of the manufactured home is at two feet above the base flood elevation; or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent

strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Recreational vehicles. Require that recreational vehicles placed on sites within Zones Al-30, AH, and AE on the community's FIRM either:

(a) Be on the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use; or

(c) meet the permit requirements of § 152.42(A)(under Permit Procedures), and the elevation and anchoring requirements for "manufactured homes" in division (4). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
(Ord. 773, passed 1-18-10)

§ 152.32 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with §§ 152.02 (Findings of Fact), 152.03 (Statement o/"Purpose) and 152.04 (Methods of Reducing Flood Losses).

(B) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of § 152.08 (Establishment of Development Permit); § 152.22 (Permit Procedures); and the provisions of §§ 152.30 through 152.34 (Provisions for Flood Hazard Reduction) of this chapter.

(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 § 152.07(Basis for Establishing the Areas of Special Flood Hazard) or § 152.21(8)(under Duties and Responsibilities of the Floodplain Administrator).

(D) Base flood elevation data shall be generated by a detailed engineering study for all Zone A areas, within 100 feet of the contour lines of Zone A areas, and other streams not mapped by FEMA, as indicated on the community's FIRM.

(E) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(F) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
(Ord. 773, passed 1-18-10)

§ 152.33 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).

Located within the areas of special flood hazard established in § 152.07 of this chapter (Basis for Establishing the Areas of Special Flood Hazard), are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to two feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of non-residential structures:

(a) Have the lowest floor (including basement) elevated to two feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

(b) Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in § 152.42 of this chapter (Permit Procedures) are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
(Ord. 773, passed 1-18-10)

§ 152.34 FLOODWAYS.

Floodways, located within areas of special flood hazard established in § 152.07 of this chapter (Basis for Establishing the Areas of Special Flood Hazard), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(A) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(B) If division (A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 152.30 through 152.34 (Provisions for Flood Hazard Reduction).

(C) Under the provisions of 44 CFR Chapter 1, § 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by 44 C.F.R. § 65.12.
(Ord. 773, passed 1-18-10)

§ 152.99 PENALTY.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter 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 Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 for each violation, and in addition shall pay all costs and expenses involved in the case. Each day a violation occurs is a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. 773, passed 1-18-10)

CHAPTER 153: OIL AND GAS DRILLING

Section

General Provisions

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GENERAL PROVISIONS

§ 153.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"COMMISSIONERS." The Board of Commissioners of the city.

"DIRECTOR." The Director of Public Works or his assistant.

"WELL." Any gas, oil, or injection well including not only new wells, but deepening any presently existing well to another zone, or the reopening of any well previously plugged in accordance with State Railroad Commission regulations.
(Ord. 380, passed 11-17-80)

§ 153.02 APPLICATION; JURISDICTION.

All wells existing within the corporate limits of the city as of the day of adoption of this chapter (November 17, 1980), are covered immediately by this chapter. All wells brought within the corporate limits by the city by future annexation of territory to the city shall be covered by this chapter immediately upon annexation.
(Ord. 380, passed 11-17-80)

§ 153.03 DRILLING OPERATIONS.

In the event that any permit is granted to drill or explore for oil or gas within the corporate 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 during the drilling and exploratory operations, particularly children. Upon the completion of such drilling operations, all drilling mud shall be removed outside the corporate limits of the city and the grounds around the well and the slush pits shall be immediately cleared of all drilling mud or all oil, salt water, or water, and shall be made to conform in appearance to the lands in the neighborhood wherein such drilling operations are so conducted. If a slush pit is located not nearer than within a 1,000-foot radius from any residence, commercial structure, or public building, the fencing requirements set forth in§ 153.04 may be waived by request to and approval of the Board of Commissioners.
(Ord. 380, passed 11-17-80) Penalty, see § 153.99

§ 153.04 TANK BATTERIES; LOCATION AND FENCING.

In the event 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 a suitable, all-metal wire fence of a sufficiently strong and close mesh construction that it will not be penetrable by domestic animals and/or small children. Any gates installed for the use of ingress or egress shall be kept locked when not in use. In no event shall such battery be located nearer than within a 150-foot radius from any residence, commercial structure, or public building, unless the application contains a signed notarized release from the property owners within such 150-foot radius. All lines on lease shall be buried a minimum of one foot. If a tank battery is located not nearer than within a 1,000-foot radius from any residence, commercial structure, or public building, this fencing requirement may be waived by request to

and approval of the Board of Commissioners.
(Ord. 380, passed 11-17-80) Penalty, see § 153.99

§ 153.05 WELL JACKS; MAINTENANCE AND FENCING.

Any well jacks or units operating within the corporate limits of the city shall be kept clean, painted, in good repair, and properly lubricated in order that they will operate quietly and they shall be enclosed by an all-metal fence of a height of not less than six feet and of a type suitable to prevent trespassing on the part of any unauthorized persons or animals, particularly children and domestic animals. A lock shall be installed on each gate which shall be locked except during workover. If a well jack is located not nearer than a 1,000-foot radius from any residence, commercial structure,

or public building, the fencing requirement set forth in § 153.04 may be waived by request to and approval of the Board of Commissioners.
(Ord. 380, passed ll-17-80) Penalty, see § 153.99

§ 153.06 PUMPS TO BE ELECTRICALLY POWERED.

No pumping unit used for the purpose of lifting oil shall be powered with any power other than electricity.
(Ord. 380, passed ll-17-80) Penalty, see § 153.99

§ 153.07 INTERNAL COMBUSTION ENGINES TO BE MUFFLED.

All internal combustion engines shall be muffled during any operation in the city.
(Ord. 380, passed ll-17-80) Penalty, see § 153.99

PERMIT

§ 153.20 PERMIT TO DRILL REQUIRED.

Before any well may be drilled within the corporate limits of the city, an application for a permit must be filed with the Director of Public Works. A permit must be obtained from the Board of Commissioners before drilling operations begin, and the permit is nontransferable.
(Ord. 380, passed ll-17-80) Penalty, see § 153.99

§ 153.21 APPLICATION.

The application for the permit required by this chapter shall set forth the following information:

(A) A copy of the drilling application and a copy of the permit which has been issued by the State Railroad Commission.

(B) The name and address of the operator of the lease.

(C) A description of the lease or lands involved in the drilling unit.

(D) A plat showing the location of the well, the ownership of the land, and offset operators.

(E) Satisfactory evidence of liability and property damage insurance as required by this chapter.

(F) Maximum drilling depth proposed.

(G) Method of operation of the proposed well (injection or production).

(H) A plat indicating all the surface rights property owners adjacent to the proposed well.

(I) Exact drilling point shall be staked by applicant prior to inspection by the Director of Public Works.
(Ord. 380, passed 11-17-80)

§ 153.22 FEE.

The fee for a permit required by this chapter, shall be in the sum of $250 to be submitted with the application. If drilling has not commenced within one year from the date of the issuance of said permit, another permit will be required under the terms of this section.
(Ord. 380, passed 11-17-80)

§ 153.23 [RESERVED.]

§ 153.24 INSURANCE REQUIRED.

(A) In addition to the bond required in § 153.23, the permittee shall carry a policy of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the permittee and the city, with an insurance company authorized to do business within the state.

(B) Such policy in the aggregate shall provide for the following minimum coverages:

(1) Bodily injuries of $100,000, one person; $300,000, one accident.

(2) Property damage, $100,000.

(C) The permittee shall file with the Director of Public Works, along with the application, a certificate of insurance as above stated. The insurance policy or policies shall not be cancelled without written notice to the Director 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 under such policy shall cease until the permittee files additional insurance as provided herein.
(Ord. 380, passed 11-17-80)

§ 153.25 ISSUANCE OF PERMIT.

Any permit granted by the Board of Commissioners shall be issued by directive of the Commissioners and signed by the Director of Public Works on a form provided by the city.
(Ord. 380, passed ll-17-80)

§ 153.26 REFUSAL OF PERMIT.

No permit shall be issued by the Board of Commissioners to drill any well when:

(A) The location for same shall be within the dedicated right-of-way of any streets or alleys of the city.

(B) The location for same shall be within a 100-foot radius of any residence, commercial, or public structure, unless the application contains a signed, notarized release from the property owners within such 100-foot radius. (Exception: Section 8 paragraph 2, Ordinance 375, dated April 21, l980 shall regulate the distance for all permit applications on file with the State Railroad Commission on or before November 17, l980. Proof of same will be the date stamped on the application to drill.)
(Ord. 380, passed ll-17-80)

§ 153.27 HEARING.

(A) The Director of Public Works shall notify in writing the surface rights property owners adjacent to the proposed drilling site and location of said well not less than five or more than 15 days prior to a hearing on the permit application. The hearing will be held before the Director; at the conclusion of the hearing and after making such investigation as he may deem proper or necessary under the circumstances, the Director shall make his recommendation to the Board of Commissioners not more than five days after the hearing has been completed, either recommending the issuance of such permit or recommending the denial thereof. Such recommendation shall be in writing and attached thereto shall be the reasons for the same including any instruments or documents submitted to him at such hearing.

(B) Hearing before Commissioners.

(1) After receipt of the recommendation made by the Director, the Commissioners shall then schedule a hearing thereon at the next regular meeting of the Commissioners at which time either party may be heard by the Commissioners prior to their final decision.

(2) The decision of the Commissioners shall be final and in making its decision it shall, in addition to other consi- derations, 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 civic purposes, health reasons, safety reasons, or any of them 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 to the city.
(Ord. 380, passed 11-17-80)

§ 153.99 PENALTY.

It shall be unlawful and an offense for any person to violate or fail to comply with any provisions of this chapter. Such violation or failure to comply 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 permit issued pursuant hereto, or who shall fail to comply with the terms hereof, shall be guilty of a misdemeanor and shall on conviction thereof, be fined in the sum of not less than $5 and not more than $200 and the violation of each separate provision thereof shall be considered a separate offense. Each day's continuance of a failure to comply therewith shall constitute a separate and distinct offense for each of those days.
(Ord. 380, passed 11-17-80)

CHAPTER 154: PLUMBING CODE

Section

154.01 Adoption by reference

§ 154.01 ADOPTION BY REFERENCE.

The International Plumbing Code (IPC), in its most recent edition, is hereby adopted by reference as though it were copied herein fully. (Ord. 595, passed 8-21-00)

CHAPTER 155: SUBDIVISION REGULATIONS

Section

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GENERAL PROVISIONS

§ 155.01 SHORT TITLE.

This chapter shall be known and may be cited as "City of Burkburnett Development and Subdivision Code."
(Ord. 445, passed 12-21-87)

§ 155.02 INTERPRETATION AND PURPOSE.

The rules and regulations of this chapter should be considered deemed minimal in nature in their interpretation and application. The purpose of this chapter is to ensure the orderly and efficient urban development of the city, through proper and equitable land subdivision; to advance, enhance, develop, and efficiently utilize land effective to secure the best possible environmental conditions, engineering and public utilities distribution respecting the Comprehensive Plan of the City of Burkburnett; to provide for adequate municipal facilities and services; and, to assure the protection and promotion of the health, safety, and general welfare of the community.
(Ord. 445, passed 12-21-87)

§ 155.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADDITION." One lot, tract, or parcel of land.

"ALLEY." A minor public right-of-way which affords only a secondary means of access to abutting property.

"BASE FLOOD." That flood having a 1% chance of being equalled or exceeded in any given year.

"CITY MANAGER." The individual with responsibility to review and approve plans for development projects. He serves as the enforcing officer of this chapter.

"COMMISSION." The Board of Commissioners of the City of Burkburnett.

"COMPREHENSIVE PLAN." The comprehensive plan for the physical development of the city which includes any element, unit, or part of such plan separately adopted, and any amendment to such plan or parts thereof necessary to the development of well-planned, integrated, residential neighborhoods and the development of the community.

"CROSS-WALKWAY OR PEDESTRIAN CROSS-WALK." A public right-of-way; ten feet or more in width between property lines, providing pedestrian, not vehicular, passage.

"DEVELOPMENT." Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, paving, drainage, or utility improvements.

"DRAINAGE WAY." Any area beneath a ground elevation defined as being the highest elevation for any one of the following:

(1) One foot above the elevation required for the peak discharge for the 100-year design flood, Alternate C, of the Flood Insurance Study, U.S. Department of Housing and Urban Development, Federal Insurance Agency.

(2) The top of the high bank.

(3) One foot above the base flood, calculated by the city's criteria.

"EASEMENT." A right granted for the purpose of limited public or semi-public use across, over, or under private land.

"ENGINEERING CONSULTANT." The individual or firm appointed by the city with responsibility for the inspection and approval of the construction of the development project.

"FLOOD PLAIN." Any land area susceptible to being inundated by water arising from a base flood topographic line.

"FLOODWAY (OR REGULATORY FLOODWAY)." The channel of a river, or other watercourse, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation higher than a designated topographic line.

"LOT." An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer, or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed on record in the County Clerk's office in Wichita County, Texas.

"MAJOR THOROUGHFARE PLAN." That part of the official map showing the location and dimensions of principal and secondary thoroughfares.

"MAY." Is permissive.

"PLAT." A subdivision plan showing lots, street reserve areas, easements, and other required information which will or has been submitted to the Commission for approval and which, if finally approved, will be submitted within the stipulated time period to the County Clerk of Wichita County, Texas, for recording.

"PLATTING." The action of securing approvals for an addition or subdivision to the city, filed for record in Wichita County.

"PUBLIC RIGHT-OF WAY." A strip of land used or intended to be used wholly or in part, as a public street, alley, walkway, drainage area, or public utility line.

"REPLAT." The resubdivision of any portion of a previously platted subdivision, addition, or any tract or parcel of land that shall change or alter, in any manner, the original plat.

"ROADWAY" or "PAVING WIDTH." The allotted section of a street used for vehicular traffic; where curbs are installed, it is the section between the face of the curbs.

"SHALL." Is always mandatory.

"STREET." A public right-of-way which provides vehicular access to adjacent land, whether designated as a street, highway, thoroughfare parkway, throughway, avenue, lane, boulevard, road, place, drive, or however otherwise designated. Street terms are defined as follows:

(1) "ARTERIAL STREETS AND HIGHWAYS." Those which are used primarily for fast or heavy traffic and includes, as indicated in the major thoroughfare plan, major and secondary thoroughfares.

(2) "COLLECTOR STREETS." Those streets indicated on the major thoroughfare plan carrying traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of all residential development and streets for circulation within such development. Collectors are those streets carrying traffic through or adjacent to commercial and industrial areas.

(3) "CUL-DE-SAC." A short, minor street having only one vehicular access to another street and terminating in a vehicular turn-around.

(4) "DEAD-END STREET." A street, other than a cul-de-sac, with only one outlet.

(5) "MAJOR STREETS." Those streets indicated on the major thoroughfare plan as adopted by the city.

(6) "MARGINAL ACCESS STREETS." Those minor streets which are parallel and adjacent to arterial streets and highways; and, which provide both access to abutting properties and protection from through traffic.

(7) "MINOR STREETS." Those used primarily for access to the abutting properties.

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"SUBDIVIDER." Any individual, firm, association, syndicate, partnership, or any of their agents, dividing or proposing to divide land in a manner which constitutes a subdivision as herein defined. The term "SUBDIVIDER" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner of that land sought to be subdivided.

"SUBDIVISION." The division of any tract of land situated within the corporate limits of the city, or within one mile of said corporate limits into two or more lots for the purpose, either immediate or future, of sale or building development, expressly excluding development for agricultural purposes, and shall include resubdivision. Lots combined for use as one lot for development must be replatted into one lot and submitted to the city to obtain approval, or laying out suburban lots or building lots, along streets, alleys, parks, or other land areas intended for public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto are included for regulation. Resubdivision is included. The following are not defined as a subdivision:

(1) The division of land in parcels or tracts of five or more acres in size not involving any new streets, alleys, or easements of access.

(2) Testamentary division of property; partnership division of property upon dissolution.

(3) A division of property between two or more owners of an undivided interest by court order (see separate ordinance).

(4) Notwithstanding anything contained herein to the contrary, any tract of land divided into parcels, or tracts, of five or more acres in size not involving any new streets, alleys, or easements of access shall be properly mapped, platted, and dedicated in accordance with state law.

(5) Lots combined for use as one lot for development must be replatted into one lot.

"SUBDIVISION" shall also mean the division or redivision of an existing subdivision together with any change of lot size therein or with the relocation of any street.
(Ord. 445, passed 12-21-87)

§ 155.04 REQUIRED SUPERVISION BY CITY FOR THE DIVISION OF LAND.

(A) All land within the corporate limits and the extraterritorial jurisdiction of the city not heretofore platted or subdivided according to the laws, rules, and regulations of the city and the state into lots, blocks, and streets shall hereafter be laid out under the direction of the City Manager who shall be the enforcing officer of this chapter. Approval or denial of a plat by the Board of Commissioners shall be final and binding.

(B) In cases where plat approval includes provisions which must be approved by the Board of Commissioners, City Manager reviews and recom-

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mendations for acceptance of a plat shall be referred to the Board of Commissioners for their action.

(C) No officer or employee of the city shall do or cause to be done, any work upon any street or in any addition or subdivision of the city unless all requirements of these regulations have been complied with by the owner of said addition or subdivision. The platter or subdivider may avail himself of the advice and assistance of the City Manager and consult early and informally with the Public Works Director before the preparation of the preliminary plat and before formal application, in order to save time and expedite any necessary planning work.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.05 JURISDICTION.

The territorial jurisdiction under this chapter shall include all land located within the legal boundaries of the city.
(Ord. 445, passed 12-21-87)

§ 155.06 WITHHOLDING IMPROVEMENTS.

It shall be the policy of the city to withhold all city improvements, including the maintenance of streets and the furnishing of sewage facilities and water service, from all additions, the platting of which have not been officially approved by the Board of Commissioners. No improvements should be initiated, and no contracts executed until the recommendation for approval by the City Manager has been forwarded and the Board of Commissioners formally accepts the plat through the public hearing process.
(Ord. 445, passed 12-21-87)

§ 155.07 NON-CONFORMING SUBDIVISION PENALTY.

No person shall sell, lease, or agree to sell or lease, any land or lot within a subdivision as herein defined, without an approved plat of said subdivision recorded in the office of the Wichita County Clerk. Such an act shall constitute a misdemeanor, if the land lies within the City of Burkburnett. The city may enjoin such a transfer, lease, sale, or agreement by initiating proceedings in any proper court of jurisdiction.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.08 PERMITS.

No building permits or repair permits shall be issued for any structure on a lot, or lots, in a subdivision for which a plat has not been approved in the manner prescribed herein and duly recorded in the office of the County Clerk of Wichita County, Texas.
(Ord. 445, passed 12-21-87)

§ 155.09 PUBLIC IMPROVEMENTS AND MUNICIPAL SERVICES.

The city shall withhold all public improvements and services of whatsoever nature, including the maintenance of streets, sewage facilities, and water service from all subdivisions which have not been approved in the manner prescribed herein, and from all areas dedicated

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the public which have not been approved by the Board of Commissioners. (Ord. 445, passed 12-21-87)

§ 155.10 REVISION OF PLAT AFTER APPROVAL.

No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Board of Commissioners and endorsed on the plat in writing, unless said change, revision, or modification is first submitted to and approved by the Board of Commissioners.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.11 REQUIREMENTS FOR REPLATTING.

(A) Property shall not be replatted which has been previously platted by a common dedication.

(B) A replat of any subdivision or any part thereof shall meet the requirements provided herein for a new subdivision, and shall show the existing property being replatted.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.12 GENERAL PROCEDURES FOR SUBDIVISION.

(A) In order to allow orderly processing of proposed additions or subdivisions, the following procedures section shall be used. In general, the steps necessary for platting are outlined:

(1) Annexation of the land.

(2) Pre-application conference with the City Manager.

(a) Includes concept discussion.

(b) Includes review of city requirements for subdivision.

(3) Review of a preliminary site plan by the City Manager.

(4) Submittal of preliminary plat to the City Manager by the prospective developer.

(5) Recommendation for approval of preliminary plat to the Board of Commissioners by the City Manager.

(6) Approval of preliminary plat by the Board of Commissioners.

(7) Submittal of final plat to the City Manager by the prospective developer.

(8) Recommendation for approval of final plat to the Board of Commissioners by the City Manager.

(9) Approval of the final plat by the Board of Commissioners.

(10) Approval of the final construction plans by the City Engineer (or the Consultant Engineer as the city's designated agent).

(11) Filing of approved plat with the Wichita County Clerk and recording of all executed easements, dedications, and other documents required to be filed for record.

(12) Completion of construction and acceptance of all dedications and improvements by the city.

(B) This procedure may be varied at the discretion of the City Manager. For those areas to be platted which lie outside of the corporate limits but are being submitted only for review and approval to satisfy the requirements of extraterritorial jurisdiction and Article 974(a), V.T.C.S., the provisions concerning annexation may be deleted. All other provisions shall remain in force.
(Ord. 445, passed 12-21-87)

§ 155.13 ANNEXATION.

If the property is not within the city limits and the owner desires annexation to be qualified to receive city services, when available, and be afforded police power protection, the owner must petition the city for annexation. After receipt of that petition, the city shall call for an election--a vote by the residents--to approve the annexation.
(Ord. 445, passed 12-21-87)

§ 155.14 CONFLICTING PROVISIONS; INTERPRETATION.

(A) Nothing in this chapter shall be construed to repeal, alter, change, or affect any of the provisions of the charter of the city.

(B) All ordinances and parts of ordinances inconsistent with this chapter or in conflict herewith are hereby repealed except that nothing in this chapter shall be construed to repeal, change or diminish and requirement, rule or regulation set forth in the Zoning Ordinance.

(C) In the event of any conflict between a requirement, rule or regulation set forth in this chapter and a requirement, rule or regulation set forth in the Zoning Ordinance shall prevail and be interpreted as a requirement, rule or regulation required by this chapter.
(Ord. 445, passed 12-21-87; Am. Ord. 732, passed 6-18-07)

PROCEDURES, FILING, AND SPECIFICATIONS FOR PRELIMINARY AND FINAL PLATS

§ 155.25 FILING AND FILING FEE.

Every subdivider seeking preliminary or final approval of a proposed subdivision shall pay a filing fee when submitting the preliminary plat according to the fee schedule current and in effect at the time of the filing (see Schedule F - Fee Schedule, which is attached to Ord. 445 and which is hereby incorporated by reference as if fully set forth herein).
(Ord. 445, passed 12-21-87)

§ 155.26 PROCEDURES AND TIMING.

(A) Pre-application conference. Prior to subdividing land, a property owner shall consult with the City Manager to review these requirements, other applicable ordinances, and provisions of the comprehensive plan that would affect the property proposed to be subdivided. This conference shall serve as the basis for preparing the preliminary plat.

(B) Preliminary plat, preparation, submittal and timing for hearing. After the pre-application conference, the prospective subdivider shall prepare a preliminary plat for city review and approval in accordance with provisions of this subchapter and submit same to City Manager at least 14 days prior to a regular scheduled meeting.

(C) City review and approvals of preliminary plat. The City Manager shall examine and may recommend approval of the preliminary plat within 30 days, if found to be in accordance with this chapter. If changes or additions need to be made to bring the plat into conformance, changes can be completed within the 30-day period. Such changes or additions ordered by the city shall be made in writing within 15 working days from the time when the preliminary subdivision plat was received by the City Manager. If at the end of this 30-day period, the City Manager still does not recommend approval of the plat, the subdivider may appeal to the Board of Commissioners, who may approve or reject the preliminary plat.

(D) City review and approvals of final plat. Following the approval of the preliminary plat, the final plat shall be submitted in accordance with § 155.32. The City Manager shall examine said plat; and, if it is in accordance with the approved preliminary plat and provisions of this chapter, the City Manager may recommend approval of said plat within 60 days of submission. In the event the final plat is disapproved by the City Manager, the subdivider may appeal to the Board of Commissioners in the same manner as set out in division (C) above.

(E) Performance of improvements, guarantees, and bonds. Following recommended approval of the preliminary and final plats by the City Manager, and the subsequent formal approval by the Board of Commissioners in public hearings, the subdivider shall install or guarantee installation of improvements as required herein, according to the provisions of the City of Burkburnett Three-Way Agreement (see Schedule C - Certification Packet, which is attached to Ord. 445 and which is hereby incorporated by reference as if fully set forth herein).
(Ord. 445, passed 12-21-87)

§ 155.27 PRELIMINARY PLAT PURPOSE AND DESIGN INTENT.

(A) The purpose of the preliminary plat submittal is to allow the City Manager to review the overall platting of the tract, water and sewer service, and street patterns within the addition or subdivision for their conformance to the city's requirements and uphold the city's obligation to enforce police powers' protection for its residents. Then, the City has an opportunity to make preliminary estimates of further municipal fiscal impacts resulting from street and utility costs in the subdivision.

(B) Along with the preliminary plat, the developer may be required to submit a preliminary, approved, water drainage analysis of the addition or subdivision to the City Manager. The water drainage analysis is
optional as required by the city; but, in any event, shall be an essential construction design and engineering factor to be considered during site design.
(Ord. 445, passed 12-21-87)

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§ 155.28 PRELIMINARY PLAT DRAWING REQUIREMENTS.

For the preliminary consideration and tentative approval of the proposed subdivision, the owner shall submit the following items to the city:

(A) Key map. Three copies of a map encompassing and designating those contiguous and adjacent areas surrounding the proposed subdivision. On this key map, the tract to be subdivided shall be indicated in a distinctive manner. This map shall be drawn to a suitable scale. As an option, this location map may be placed directly on the preliminary plat drawing.

(B) Preliminary plat drawing. Six copies of a map of the preliminary plat showing the general features of the proposed subdivision. This information shall be drawn on a sheet size of 24 x 36 inches at a scale of 100 feet to one inch (1" = 100'), and shall clearly indicate:

(1) The name of the proposed addition or subdivision, the name and address of the owner and developer and the engineer or surveyor responsible for the design and the survey, the tract designation, and other descriptions according to the abstract and survey records of Wichita County, Texas. The name shall not be similar to, nor duplicate, the name of any existing subdivision.

(2) A north point, scale, and date.

(3) All of the boundary lines of the tract, accurate in scale.

(4) The names of adjacent additions or subdivisions or names of record of owners of adjoining parcels, the location, widths, and names of all existing or platted streets, easements, or other public ways within or adjacent to the tract, existing railroad rights-of-way, and other important features such as section lines, political subdivision or corporation limits, and school district boundaries. Also shown shall be building lines, parks, water courses, ravines, bridges, culverts, other structures, and pertinent natural features.

(5) All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose or conditions of limitations of such reservation.

(6) The layout, names, and width of proposed streets, alleys, and easements.

(7) The layout, numbers, and approximate dimensions of proposed lots and all building lines.

(8) The location of proposed screening walls.

(9) Contours of the tract in intervals of five feet or less, referred to sea level datum. A proposed general drainage plan may be required in accordance with division (C) of this section.

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(10) (a) Existing utilities, sewers, water mains, culverts, or other underground structures within the tract and immediately adjacent thereto with pipe sizes and locations indicated.

(b) An engineering statement as to the capacity of existing city utilities to supply adequate service to the newly-subdivided areas. This would necessarily include a study of current water, sewer and fire protection facilities and a statement that the new areas would not over-burden those facilities.

(c) Should an engineering study indicate that additional development would overload present utility capabilities, a statement of recommended corrective action from the engineering firm, to be implemented by the developer, would be required.

(11) Proposed utilities, water, sanitary sewer, and storm sewer pipe lines with sizes indicated and valves, fittings, manholes, inlets, culverts, bridges, and other appurtenances or structures shown.

(12) Storm water retention basins as required.

(13) Existing sewer lines, water lines, and gas mains; electric and telephone lines and any other public utilities. In the event water mains and sewers are not on or adjacent to the tract, the direction and distance to, and size of nearest ones, showing invert elevation of sewers, shall be indicated.

(14) Site information of the subdivision with streets, roads, alleys, blocks, lots, easements, building lines, parks, water courses, and the like, with principal dimensions. This proposed plan shall indicate how streets, alleys, highways, and easements in the proposed subdivision will connect with those in the surrounding area and shall show paving widths and right-of-way widths.

(15) Proposed streets, within the subdivision area, shall be named and shall conform with names of any existing streets of which they may be, or become, extensions. The names shall not duplicate, nor be similar to, the recognized name of any other street located elsewhere in the area subject to these rules and regulations.

(C) Proposed general drainage plan. A plan for the area concerned may be requested to be provided. All lots shall indicate grade slopes away from buildings.

(1) Three copies of a topographic map may be required separate from other submitted material indicating pertinent contour intervals, shall be submitted as per the following. If required, grading restrictions shall be mandatory.

(2) The average site grade up to 5% shall have a maximum contour interval of two feet, and the average site grade over 5% shall have a maximum contour interval of five feet. All house floor slabs shall be higher than any street elevation along the entire lot frontage. This map shall be drawn at a suitable scale. All grades and elevations shown shall be referred to city datum.

(D) Plans. Plans and signed statements shall be provided which establish the grades and profiles of streets, sewers, and water lines, the proposed type and character of all improvements, and an affidavit describing the subdivider's proposal to the city for accomplishing the installation of required improvements as set forth in accordance with § 155.32.

(E) Affidavits. Affidavits certifying that the engineers and/or surveyors engaged in and responsible for the plat and its final execution are fully qualified for the responsibilities of the work involved shall be attached.
(Ord. 445, passed 12-21-87; Am. Ord. 528, passed 11-21-94) Penalty, see § 155.99

§ 155.29 GENERAL PROCEDURES FOR FINAL PLAT.

(A) Upon receiving approval of the preliminary plat from the City Manager, the owner of the tract proposed for subdivision shall, within 180 days of the approval date of the preliminary plat, have prepared and submitted a final plat to the City Manager for his review and transmittal to the pertinent municipal agencies. This final plat shall be submitted at least 14 days prior to the regularly scheduled meeting date of the Board of Commissioners. No final plat will be considered unless a preliminary plat has first been submitted, reviewed, and developed from recommendations based on the pre-application conference and preliminary plat city review. The final plat shall show, and be governed by these specifications, including the following data. All final plats must be approved by the Board of Commissioners, following recommendations for approval of the final plat by the City Manager.

(B) The developer, his engineer, or architect shall submit the final plat and the completed construction plans for city review. Submittal shall include an application form and payment of the required filing fees according to schedules current at the time of application (see Schedule F - Fee Schedule, which is attached to Ord. 445 and which is hereby incorporated by reference as if fully set forth herein).
(Ord. 445, passed 12-21-87)

§ 155.30 FINAL PLAT DRAWING REQUIREMENTS.

The final plat shall be drawn or copied and submitted on a black line reproducible mylar or linen on sheets 24 inches wide by 36 inches long, with a margin of 2-1/2 inches on the left side of the sheet and one inch margin on the other three sides. The plat shall be drawn at a scale of 100 feet to one inch (1" = 100'). Where more than one sheet is necessary

to accommodate the entire area to be subdivided, an index sheet showing the entire subdivision at a suitable scale shall be attached to the plat. The subdivider shall submit one reproducible drawing and six copies of the final plat, together with six copies of all pertinent and related data, letters, certificates, and the like. The plat shall show the following data and have attached documents as per the following:

(A) The accurate location, material, and approximate size of all monuments.

(B) An accurate location of the subdivision with reference to the abstract and survey records of Wichita County, Texas.

(C) True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county, or section lines accurately tied to the lines of the subdivision by distances and bearings.

(D) All site boundary lines with accurate distances and bearings with the exact location and width of all existing or recorded streets intersecting the boundary of the tract. Primary control points shall be indicated (after review and approval by the City Manager), and description, and "ties" to such control points are to be shown, in which all dimensions, angles, bearings, new city block numbers and similar data on the plat shall be referred.

(E) Special restrictions including, but not limited to, drainage and floodway, fire lanes, and screening.

(F) Proposed name of the addition or subdivision.

(G) Name and address of the owner or developer.

(H) North point, scale, and date.

(I) Name, or title of the subdivision; definite legal description (metes and bounds) and identification of the tract being subdivided; north point; scale of the map; name of the engineer and/or surveyor responsible for the surveys and/or plat; name of record for owner of the land involved; date of preparation.

(J) Tract boundary lines, the exact location, width, and distances of all existing or recorded streets, and other rights-of-way intersecting the boundary or streets, easements, and other rights-of-way forming the boundary of the tract being subdivided. Property lines of residential lots and other sites abutting the subdivision with accurate dimensions, bearing or deflecting angles and radii, area, and central angles of curves in all adjoining streets and alleys, with their names, and the names of adjoining subdivisions. Oil wells shall be indicated, also.

(K) All block, lot, and street boundary lines shall be shown in accurate dimensions with bearings and angles. Building lines, easements, rights-of-way, and the like shall be shown and defined by necessary dimensions.

(L) House numbers shall be allocated to lots by the City Manager and will be shown on the plat, subject to approval by the Board of Commissioners. (A visible house number will be displayed on the lot when a building is under construction.) Blocks and lots shall be numbered or lettered in accordance with a systematic arrangement. The actual right-of-way width and actual paving width of all streets shall be shown and where curved shall be measured at right angles or radially.

(M) Building setback lines shall be indicated. They are: 70 feet for arterial streets, 25 feet for minor streets and 15 feet on sides of corner lots. The designation of major and side streets shall be made by the developer, subject to the approval of the City Manager. A five-foot easement (setback) and building limit line shall be indicated on each side of each lot, creating a ten-foot easement between lots. All necessary dimensions, including linear, curvilinear, and angular shall be shown and must be accurately indicated. The linear and curvilinear dimensions shall

be expressed in feet and decimals of a foot. The angular dimensions may be shown using bearings. Curved boundaries must be fully described and all essential information given, including the length of tangents, central angle of curve, and the chords and arcs of curves. Block corners, angle points, points of curve, and points of intersection of tangents shall be shown as permanently marked on the ground. Complete dimensional data shall be given for fractional lots or tracts.

(N) Bench mark elevations shall be established on at least one block corner of each street intersection and in no case more than 700 feet from any other bench mark. These elevations shall be clearly shown on the plat.

(O) Permanent survey reference monuments shall be furnished by the city at the developer's expense, indicated with a complete description and location of same. These monuments shall be in addition to, and other than, any markers set for lot corners. Their location shall be in acceptable and suitable sites throughout the subdivision and there shall be at least as many of them as there are blocks in the subdivision, but there should be not less than two if there is but one block in the subdivision. At no point shall the distance be greater than 1,000 feet between successive monuments along any street or reference line.

(P) The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the addition or subdivision.

(Q) Certification by a registered public surveyor that the plat represents a survey made by him and that all the monuments shown thereon actually exist; and, their location, size, and material description are correctly shown.

(R) 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 along with complete and accurate description of the land

subdivided and the streets dedicated.

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(S) Additional certificates to properly dedicated easements or rights-of-way as may be necessary.

(T) Boundary survey closure and area calculations.

(U) Tax receipts showing that all current and past due taxes on the property contained within the proposed subdivision have been paid.

(V) A waiver of claim for damages against the city occasioned by the establishment of grades, or the alteration of the surface of any portion of the existing streets and alleys, or natural contours, to conform to the grades established in the subdivision.

(W) A certificate of ownership in fee of all the land embraced in the subdivision of authenticity of the plat and dedication, including all properties intended for public use, signed and acknowledged by all owners holding any interest in said land and properties. Acknowledgement shall be in the form required in the conveyance of real estate. Approval and acceptance by all lienholders shall be included.

(X) A certification by a professional engineer or a licensed land surveyor, duly authenticated, that the plat is true and correct and in accordance with the results of surveys actually made on the site of the subdivision; that all block corners in the subdivision have been staked; and that the tract is within one mile of the city limits of Burkburnett, measured in a straight line between nearest points.

(Y) A certification by a professional engineer, duly authenticated, that the proper engineering consideration has been given to all streets, water, sewage, drainage, and any other public facilities of a pertinent nature.

(Z) An expressed dedication to the public for public use forever, the streets, alleys, rights-of-way, easements, parks, water courses, drains, school sites, public squares, and other land intended for public use shown on the final plat.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.31 CONSTRUCTION DOCUMENTS.

(A) Construction documents (hereafter called "plans"), as part of the final plat submittal, shall be prepared by, or under the supervision of, a Registered Professional Engineer in the State of Texas and shall bear his seal on each sheet. The plans shall contain all necessary information for construction of the project.

(B) Each sheet of the plans shall contain a title block including space for notations or revisions. This space is to be completed with each revision to any drawing sheet and shall clearly note the nature of the revision and the date the revision was made.

(C) After review of the plat and accompanying construction documents, the plat shall be submitted to the Board of Commissioners for

their consideration. If approved subject to changes, the engineer for the owner shall make all changes required. The City Engineer or his designated representative will approve and return all plans to the engineer of the owner for use by the contractors. Each contractor shall maintain one set of the plans, stamped with city approval, at the project site at all times during construction. If construction has not commenced within one year after approval of the plans, resubmittal of plans may be required by the City Engineer in order to meet current standards and engineering requirements ("Construction" shall mean installation of city maintained improvements or facilities).
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.32 IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF FINAL PLAT.

(A) Monuments. Block corners shall be of one-inch pipe or three-quarter inch steel rod not less than 24 inches long, and shall be placed at all corners of boundary lines and at curve points and angle points of the subdivision. The center of the pipe or rod shall be the exact point of intersection. The top of the pipe or rod shall be placed flush with the natural ground, or in the event grading is required, it shall be placed flush with the finished grade.

(B) Lot markers. Lot markers shall be iron pins not less than one-half inch in diameter and no less that 18 inches long and shall be set flush with the ground at each lot corner.

(C) Street improvements. Prior to the approval of any final plat, the subdivider shall have prepared, or authorized the city to prepare or have prepared for the account of the subdivider, complete engineering plans of streets, curb and gutter, street signs, traffic signs, storm sewers, and drainage structures for the area covered by the final plat.

(D) Facilities improvements. Prior to the approval of any final plat, the subdivider shall have prepared or authorized the city to prepare or have prepared for the account of the subdivider, complete engineering plans of water and sewer lines and structures for the area covered by the final plat.

(E) Inspection. All construction, such as street grading, street paving, drainage structures, curb and gutter, storm sewers, sanitary sewers, water mains, and the like shall be subject to inspection during the construction period by the proper authorities of the city, and shall be constructed in accordance with the approved engineering plans and the city's standard specifications.

(F) Guarantee for construction. No building permit, or water, sewer, plumbing, or electrical permit shall be issued to a subdivider, owner, or legal entity until all street and facilities improvements have been satisfactorily completed, or until a satisfactory three-way agreement has been executed according to Appendix Item "X", which is attached to Ord. 445 and which is hereby incorporated by reference as if fully set forth herein, or an acceptable substitute agreements an alternative. The subdivider and/or owner may file a corporate surety bond with the City

Treasurer in a sum equal to the total cost of such improvements for the designated area, guaranteeing the construction of said improvements within a stated period of time instead of making a cash deposit. In the event that any or all of the required improvements are not completed within the time specified in said bond, the city may let or relet the contract and the subdivider and surety will be jointly and severally liable for the costs thereof to the amount specified for such improvement or improvements within said bond. The bond may provide for an extension of time under conditions approved by the City Manager and for the termination of the bond upon vacation of the plat.

(G) Municipal participation.

(1) The subdivider of any property within the territorial limits of these regulations which is desired to be developed shall, at his own expense, cause to be constructed all street improvements such as grading, paving, curb and gutter, sidewalks, street signs, traffic signs, monuments, alleys storm sewers, drainage structures, and other improvements, including sanitary sewers and water lines.

(2) The subdivider of any property within the territorial limits of these regulations which is desired to be developed, shall, at his own expense, construct an adequate fire protection system with one fire hydrant not more than 500 feet from any structure. The city shall approve the type of hydrant prior to purchase and installation.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

GENERAL SUBDIVISION DESIGN PROVISIONS

§ 155.45 APPLICATION.

Unless otherwise provided in this chapter, all subdivision plans shall conform with the standards set forth in this subchapter.
(Ord. 445, passed 12-21-87)

§ 155.46 STREETS.

(A) Arterial streets shall have a minimum dedicated right-of-way width of 100 feet, with a minimum paving width of 48 feet or two 24-foot pavements separated by a median at least 14 feet in width and shall conform with the adopted major thoroughfare plan.

(B) Major streets shall have a minimum dedicated right-of-way width of 80 feet with a minimum paving width of 48 feet and shall conform with the adopted major thoroughfare plan.

(C) Collector streets shall have a minimum dedicated right-of-way width of 60 feet with a minimum paving width of 40 feet and shall conform with the adopted major thoroughfare plan.

(D) Minor streets shall have a minimum dedicated right-of-way width of 50 feet and a minimum paving width of 30 feet.

(E) Alleys shall be graded for drainage, low spots filled with sandstone and surfaced with crushed rock or gravel. Public utilities or others who make excavations in alleys will replace the subgrade, base, and surface by proper compaction and surface material. Alleys shall have a minimum dedicated right-of-way width of 20 feet in residential areas and 25 feet in commercial, business, and industrial areas, and a paved surface of not less than 25 feet of commercial, business, and industrial areas. Alleys shall be provided in all commercial or industrial areas. Easements of five feet shall be provided on each side of all side lot lines. Dead-end alleys shall not be permitted.

(F) Curbs and gutters shall be required on both sides of all interior streets and on the subdivision side of adjacent streets. Curb and gutter returns shall be required at all alley intersections.

(G) Street signs shall be installed on two diagonally opposite corners of each intersecting street and shall be of a type approved by the City Manager, and installed in accordance with city standards.

(H) Street construction shall be done with respect to base, surface, curbs and gutters, grades, intersection curve radii, and horizontal curves in accordance with the specifications and standards of the city (see Schedule S: street construction, which is attached to Ord. 445 and which is hereby incorporated by reference as if fully set forth herein). All street construction work shall be performed by a bonded contractor who has filed his faithful performance bond with the city, and in addition, said contractor shall file a maintenance bond in favor of the city, guaranteeing the materials and workmanship for a period of one year from the date of acceptance by the city.

(1) Construction requirements shall be as follows:

(a) Streets, including parkways, shall be excavated to the line and grade shown on those construction plans accepted by the city.

(b) Sewer services located in alleys and rights-of-way shall be constructed to the property line, and water services shall be constructed to a point two feet back of the curb, prior to the preparation of the street subgrade. All trenches shall be backfilled in accordance with city standard specifications.

(c) Standard curb and gutter (if used in the subdivision) shall be constructed on both sides of streets and in medians, where applicable, including all curb returns where required, in accordance with the standard specifications and to the line and grade shown on those construction plans accepted by the city.

(d) Standard pavement widths and sections shall be constructed on prepared subgrade in accordance with these standard specifications. Pavement widths shall be measured from back of curb to back of curb. These widths shall be as shown in the thoroughfare plan and, where not shown therein, the widths and thicknesses shall be not less than the following:

TABLE I

Street Classification	Minimum Pavement Width	Minimum Pavement Thickness	Minimum Wheel Loadings
Local or Minor	31 feet	6 inches* 5 inches**	5,000 lbs.
Minor Collector	40 feet	7 inches* 6 inches**	9,000 lbs.
Major Collector	48 feet	8 inches*	12,000 lbs.
Arterial or Thoroughfare	As Indicated in Thoroughfare Plan	7 inches**	18,000 lbs.
Alley (Residential)	20 feet	5 inches**	
Alley (Commercial, business and industrial)	25 feet	6 inches**	
Walkway	6 feet	4 inches**	

*Hot Mix Asphaltic Concrete
**Portland Cement Concrete

The above minimum widths and thicknesses may be upgraded by the city when it is deemed necessary to provide pavement suitable for a collector, arterial, or major thoroughfare.

(e) Where the plasticity index of the natural soil is equal to or exceeds 20, lime stabilization shall be required. A minimum of 6% by weight lime to a depth of 8 inches shall be required. Where the plasticity index of the natural soil is less than 20 but equal to or greater than 15, lime stabilization may be required if, in the opinion of the city, it is necessary in order to achieve a proper subgrade. Soil samples for determining the plasticity index of the natural soils may be required to be taken at locations specified by the city and shall be paid for by the owner. At the owner's option and expense, a lime series test may be made by a qualified testing firm and lime may then be applied at the optimum rate indicated by the test.

1. Asphalt pavement (residential street).

a. Subgrade.

i) Subgrade shall be stabilized with hydrated lime or cement, six inches deep and laterally to one foot outside the backs of the curbs. Subgrade shall be stabilized with 5% lime, by weight, if soil plasticity index is equal to or greater than 15, and stabilized with 6% cement, by weight, if soil plasticity index is less than 15. Stabilized subgrade shall be compacted to 95% ASTM

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ii) Subgrade shall be primed with asphaltic oil, MC-30, in accordance with Item 5.3 in Standard Specifications for Public Works Construction prepared by the North Central Texas Council of Governments.

b. Base. Base course shall be four inches of asphaltic stabilized base (Grade 2) (Item 2.4.14 in Standard Specifications for Public Works Construction prepared by the North Central Texas Council of Governments).

c. Wear course. Wear course shall be two inches of hot mixed asphaltic concrete, Type D (Item 2.4.13 in Standard Specifications for Public Works Construction prepared by the North Central Texas Council of Governments).

2. Concrete pavement (residential street).

a. Base. Base shall consist of four inches compacted sand or four inches of natural base stabilized with 6% lime of cement extended 1′-0″ behind and beyond each side of curbs.

b. Wearing surface. Wearing surface shall be five inches minimum of Class "A" Concrete (SDHPT 1982 Standard Specifications, Item 364) reinforced with No. 3 bars on 24-inch centers each way for curb-to-curb street widths up to 30′-0″, and six-inch minimum (same specifications) for curb-to-curb street widths exceeding 30′-0″. The centerline construction joint shall be keyed and tied with No. 3 tie bars 24 inches long on 24-inch centers. Sealed expansion grooves 1-1/4 inches deep shall be provided on the 1/4 points longitudinally and every 15 feet transversely.

(f) When a proper subgrade cannot be constructed in soils having a low plasticity index, cement stabilization may be required when deemed necessary by the city.

(g) All construction shall be in accordance with the revised standard specifications for street construction in the city of Burkburnett.

(2) Private access ways. All private access ways which provide the primary vehicular access to two or more residential lots to be developed as single-family residences, duplexes, townhouses, or any justify combination thereof shall be constructed with a minimum of five inches of reinforced portland cement concrete over a compacted base.

(I) Streets shall be so arranged to provide for the extension of all existing streets and for vehicular circulation throughout the subdivision. Off-center street intersections are not permitted. If they are necessary and essential as approved by the city, then the distance between center lines of offset streets shall be at least 120 feet.

(J) Subdivisions need not follow existing grid street patterns. Courts, cul-de-sacs, loop, or other designs, may be provided if proper access is given to all lots from a dedicated street or court. All dead-end streets shall terminate in a dedicated street space having a minimum radius of 50 feet. Dead-end streets shall not exceed 600 feet in length. Where a street is temporarily dead-ended at a property line and is to be continued when the adjacent property is subdivided a temporary turn-around shall be provided of the aforementioned 50-foot radius.

(K) All adjoining streets and land and any system of streets designed for a subdivision, shall connect with existing or platted streets and alleys in adjacent and contiguous subdivisions. Where no adjacent connections are platted they shall, in general, be arranged in such a manner as to cause no hardship to owners of adjoining property for their future platting and provide access to them which will not be taxable or accessible for special improvements shall not be permitted in any subdivision unless such reserve strips are conveyed to the city in fee simple.

(L) Firelanes shall be provided between any buildings, structures, or accessory buildings where residential entrances do not face a dedicated or designated street. Firelanes shall be directly entered from a street and be sized at a minimum width of 24′- 0″ with an additional 5′ - 0″ fire equipment staging area immediately contiguous to the firelane for safety purposes.
(Ord. 445, passed 12-21-87; Am. Ord. 503, passed 5-4-93) Penalty, see § 155.99

§ 155.47 BLOCKS.

(A) Block lengths shall not exceed 600 feet without connecting to an intersecting street.

(B) Pedestrian crosswalks, not less than ten feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.48 LOTS.

(A) Residential lots shall have an area of not less than 6,000 square feet, and shall be at least 60 feet wide and not less than 100 feet deep. In the case of irregularly shaped lots, the minimum width shall be measured at the front building line. All lots shall be graded to provide a building pad set at a minimum of one foot above street and alley elevations or at a 1/2% slope, whichever is greater.

(B) Lot lines shall be laid out at right angles to straight street lines and radially to curved street lines. Corner lots shall have extra width sufficient to permit the maintenance of adequate building lines on both front and side streets. Building setback lines are 25 feet at fronts, 15 feet at sides on minor streets, and a five-foot building limit on any other sides.

(C) Each lot shall front upon a public street and will provide a satisfactory and desirable building site, properly related to topography and character of surrounding development. Access to lots must be from a dedicated street and not from lanes, alleys, or easements.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.49 PARK AND SCHOOL SITES.

(A) All subdividers must set aside land for parks or school sites within the areas proposed to be subdivided where required by the city. For every 100 lots in a subdivision for single-family homes, one acre must be set aside for park and/or school sites. In the event land is to be subdivided for duplex or multiple unit construction, one acre must be set aside for each 50 dwelling units to be constructed.

(B) If a site for a park (as shown in the comprehensive plan) lies within the area to be subdivided, that area shall be designated on the plat. If the area needed for park purposes exceeds that land or is otherwise required by this chapter, the city shall determine if the entire site is needed for the proposed purpose. If not, the subdivider is only required to sell that portion of the area otherwise required by this chapter to the city or county. The city must within 90 days of the plat's recording, execute an agreement to purchase the park site within two years. Failure of the city or county to execute such an agreement within the stipulated time will release the owner or subdivider from an obligation to reserve said site or sites. The purchase price of a park site shall be determined by totaling the following:

(1) Appraised raw land value of site prior to subdividing.

(2) One-half the cost of grading, paving, curb and gutter, and drainage of contiguous streets.

(3) The cost of utilities to serve the site as determined by the City Manager.

(C) The land to be dedicated for park purposes must be suitable for such purposes as determined by the appropriate city officials. In no case shall the city be required to accept any site.

(D) In the event that the subdivision is of such size that the area required for park purposes is less than five acres, the site must be located on a side of the subdivision not bounded by roads and on which additional land may be acquired as the area is subdivided.
(Ord. 445, passed 12-21-87) Penalty, see § 155.99

§ 155.50 APPROVAL OF FINAL PLAT IN PHASES BY SECTIONS.

(A) The subdivider, at his option, may obtain approval of a section or phase of his subdivision, provided he meets all the requirements of this chapter with reference to such portion, phase, or section in the same manner as required for a complete subdivision.

(B) If a subdivision final plat is approved by the Board of Commissioners for execution in sections, each final plat of each section shall bear the name of the entire subdivision, but is to be distinguished from each other section by its subtitle, sequence title, or number. Block numbers shall run consecutively throughout the entire subdivision.
(Ord. 445, passed 12-21-87)

§ 155.51 MAINTENANCE OF FACILITIES.

(A) The city shall not be liable for the maintenance of any public facility in a subdivision until the proper authorities of the city shall have formally accepted those public facilities.

(B) The subdivider and/or owner shall furnish the city with a 100% maintenance bond for maintenance on all streets, good for one year from the date of formal acceptance.
(Ord. 445, passed 12-21-87)

RECORDING AND CONSTRUCTION PROVISIONS; FINAL PROCEDURES

§ 155.65 RECORDING OF FINAL PLAT.

(A) Filing of plat. After approval of the final plat by the Board of Commissioners, and correction of the plat as required by the city, the developer or his architect or engineer shall submit filing fees, as required by the Engineering Department, and the required number of copies and file with the County Clerk. These copies shall bear all signatures by those of the city officials. After signatures by these city officials, the city will complete their filing process and return the required number of filed copies to the developer for his filing with the county. Said copies shall show the volume and page of the map and plat records into which the plat was filed by the County Clerk. If the final plat has not been submitted for signature by city officials within six months after approval by the Board of Commissioners, the plat shall be deemed null and void, resubmittal shall be required, and current regulations shall apply.

(B) Procedure for recording final plat. The final plat, after approval of the City Manager and the Board of Commissioners, shall be submitted to be recorded by the developer in the office of the County Clerk of Wichita County, Texas within 30 days from the date of the city's final approval and at the expense of the subdivider. Should the subdivider not submit the proper documents and fees for filing the final plat to the office of the City Manager within the above stated time period, then the final plat shall become null and void and shall be subject to the procedure of a new application for a subdivision.
(Ord. 445, passed 12-21-87)

§ 155.66 SUBMITTALS REQUIRED FOR CONSTRUCTION.

Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:

(A) The final plat shall be completed as per city requirements at the time of approval.

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(B) All required contract documents shall be completed and filed with the City Manager.

(C) All necessary off-site easements or dedications required for city maintained facilities, not shown on the final plat must be conveyed solely to the city, with proper signatures affixed. The original of the documents, and filing fees, shall be returned to the City Manager prior to approval and release of the engineering plans.

(D) All contractors participating in the construction shall be presented with a set of approved plans bearing the written approval of the City Engineer. These plans shall remain on the job site at all times.

(E) If required by the City Manager or Public Works Director, all parties participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.

(F) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times, must be submitted to the Public Works Director.

(G) Three prints of the utility plan sheet, scale 1″ = 100′ and ten prints of the same, reduced to 1″ = 200′, shall be submitted to the Public Works Director, in addition to previous submittal of construction plans.

(H) Manufacturers' drawings for all fabricated appurtenances or special construction items shall be submitted to the Public Works Director.
(Ord. 445, passed 12-21-87)

§ 155.67 DEVELOPMENT CONSTRUCTION.

Completion of construction according to the approved plans, standard specifications, and standard details of the city is the entire responsibility of the developer and the contractors. Limited supervision shall be provided by the Public Works Director. The responsibility of the Public Works Director is to assure conformance to the approved plans and specifications. Any change in design required during construction shall be made by the City Engineer whose signature is shown on the plans and shall be approved by the City Manager.
(Ord. 445, passed 12-21-87)

§ 155.68 ACCEPTANCE OF THE DEVELOPMENT.

(A) After completion of all items required in the plans and specifications, the contractor shall submit to the City Manager a bond in the amount of 100% of the streets' construction amount and 10% of the contract amount for the other remaining items of construction guaranteeing workmanship and materials for a period of one year from the date of final acceptance by the city. The Public Works Director shall verify that all items have been completed, including the filing of the plat and all related easements and documents, payment of pro rata fees for water and sewer services, payment of the water and sanitary sewer availability

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charge, etc. The Public Works Director, or his designated agent, shall conduct a final inspection of the project, and, if all work is found to be acceptable, shall issue a letter of acceptance. Any items of exception noted in the acceptance letter shall be immediately satisfied.

(B) Acceptance of the development shall mean that title to all improvements is vested in the city. The developer and his contractors shall, however, be bound to the city for a period of one year to repair any defects in the improvements.
(Ord. 445, passed 12-21-87)

§ 155.69 AS-BUILT PLANS.

(A) Prior to final acceptance by the city of the improvements, the engineer for the developer shall submit to the Public Works Director a complete set of drawings of the paving, drainage, water, sanitary sewer, or other improvements, showing all changes made in the plans during construction and containing on each sheet an "as-built" stamp bearing the signature of the engineer and the date. In addition, one reproducible drawing of the utility plan sheets containing the as-built information shall be submitted.

(B) If requested by the developer, field inspection and acceptance can be permitted to allow construction of utilities other than city maintained facilities, prior to final acceptance.
(Ord. 445, passed 12-21-87)

TOWNHOUSE AND CONDOMINIUM DEVELOPMENT

§ 155.75 PURPOSE.

(A) Because of the newness of townhouses, condominiums, cluster houses and other such housing concepts in the city, and because such housing does not fall into any existing residential subdivision, the city finds that a set of guidelines are necessary to set forth the city's policy and attitudes towards these housing types. The city does encourage new and creative ideas when such ideas are in the best interest of the city as a whole, therefore, each proposed development must be reviewed individually and judged on its merits. In order to provide for individual review it has been decided that all townhouses, condominiums, cluster housing and other such concepts shall be allowed only under Planned Development.

(B) In approving a townhouse project, the city shall assure itself that the project meets the following conditions:

(1) That property adjacent to the area included in the project shall not be adversely affected.

(2) That the lots or area within the project shall be used only for single-family dwellings and uses commonly accessory thereto such as garages, carports, or storage areas.

(3) That the project is consistent with the intent and purpose to promote health, safety, morals, and general welfare.

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(B) This type of subdivision requires "a comprehensive site plan" and that the site plan and chapter "shall set forth" various requirements, therefore, the guidelines of this subchapter are given to show what is expected in regard to these various requirements.
(Ord. 505, passed 5-17-93)

§ 155.76 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CONDOMINIUM STRUCTURE." Four or more condominium apartments each having a width of not less than 18 feet in a single building.

"TOWNHOUSE." A structure on an individual lot, which is one of a series of dwelling units designed for single-family occupancy, which dwelling units are structurally connected or immediately adjacent to and abutting each other without side yards between individual dwelling units. A "condominium apartment" (as defined in Article 1301a, V.A.T.S.) in a "condominium structure" may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below it.

"TOWNHOUSE PROJECT." A development consisting of not less than one acre of land having not less than 100 feet of continuous frontage on an access street or and interior street and not less than four townhouses.
(Ord. 505, passed 5-17-93)

§ 155.77 GENERAL LOCATION.

Each application shall be judged on its appropriateness to its site and to its compatibility with existing development or other proposed development. It is felt that through proper planning it is possible to design townhouse development to fit most areas of the city. This is not to say that such a plan is economically feasible.
(Ord. 505, passed 5-17-93)

§ 155.78 COMPREHENSIVE SITE PLAN.

(A) The Comprehensive Site Plan is to be a graphic plan including all of the area under consideration for city approval and shall be submitted with the application. This plan need not be detailed but must show:

(1) Use areas;

(2) Land areas for building, principal roadways, parkways, buffers, screenings; and

(3) Number and type of dwelling units.

(B) Notes, sketches, photographs and drawings may be attached to the development plan to illustrate the intent of treatment of parkways, auto parking areas, buffer strips, screening and shrubs, roadway design,

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special subdivision lotting plans and other such ideas which cannot be satisfactorily explained otherwise. Such notes, sketches, photographs, and drawings shall be used to evaluate detailed site plans. If the Comprehensive Site Plan is only conceptual in nature, no building permit shall be issued until a Detailed Site Plan is approved by the City Council.
(Ord. 505, passed 5-17-93)

§ 155.79 DETAILED SITE PLAN.

(A) A Detailed Site Plan shall be approved prior to issuance of a building and shall show:

(1) Locations of buildings or building complexes, open spaces, parking area, drives, streets and other access ways, fire lanes, landscaping (in general only), walls and fences, buffer strips;

(2) Use of buildings;

(3) Number of dwelling units;

(4) Lotting plans if applicable;

(5) Diagrammatic utility layouts; and

(6) Other such things which serve to show that the proposed development will be compatible with the surrounding area and will provide a wholesome environment for future residents.

(B) The site plan may be composed of several sheets and may include photographs and sketches if necessary.

(C) The Detailed Site Plan and the Comprehensive Site Plan may be one-in-the-same if all conditions of both are met. In the event of a Multi-Phase Project, it is intended that a Detailed Site Plan be submitted only on the area that is proposed for immediate development. Additional plans may be approved as additional phases are ready to be developed. All Detailed Site Plans shall be in general conformance with the Comprehensive Site Plan and applications for building permits will be reviewed based on the Detailed Site Plan.
(Ord. 505, passed 5-17-93)

§ 155.80 STANDARDS AND SPECIFICATIONS.

The standards and specifications for townhouse projects shall be those prescribed under this chapter subject to the following exceptions:

(A) Access.

(1) All townhouse projects shall have direct access from one dedicated, improved and accessible access street having a right-of-way width of not less than 60 feet.

(2) All townhouses or condominium structures shall immediately abut and have direct access to an access street or an interior street, or an alley.

(3) Interior streets shall have a minimum right-of-way width of 55 feet and shall be developed with a minimum 35-foot wide concrete paving section constructed with concrete curbs and gutters in accordance with city standards.

(4) Alleys shall have a right-of-way width of at least 25 feet and shall have a minimum concrete paving section of 20 feet in width in accordance with city standards.

(B) Density. No townhouse project shall have a greater density than 15 lots or condominium apartments per gross acre.

(C) Area.

(1) Each lot shall have an area of not less than 1,600 square feet.

(2) Each lot shall have a minimum width of not less than 18 feet except that lots siding on an access street or upon a plat boundary of the project shall not be less than 28 feet wide.

(3) Each condominium site shall provide a minimum land area of 1,600 square feet per condominium apartment and in addition shall meet the required building set back lines set forth in division (D) below.

(D) Building Setback Lines.

(1) A front building setback line of 25 feet shall be required for all lots and condominium structures fronting on an access street.

(2) A front building setback line of ten feet shall be required for all lots and condominium structures fronting on an interior street. However, the city may approve reductions to an average five-foot setback if staggered front setbacks are used. Such average is to be determined across the frontage of a maximum of five adjoining lots or condominium apartments. The differential in front setbacks shall not exceed ten feet for adjoining lots.

(3) A rear building setback line of 20 feet shall be required for all lots and condominium structures backing on an access street and the lots or structures shall be denied direct driveway access to the access street.

(4) A rear building setback line of 20 feet shall be required for all lots and condominium structures abutting a recorded plat used or intended to be used for single-family detached dwelling units.

(5) A side building setback line of ten feet shall be required on the side for all lots and condominium structures siding on an access street or siding upon a plat boundary of the project.

(6) No building setback line shall be required on the sides of a blot or condominium structure abutting interior streets except where, in the opinion of the Commission, traffic safety necessitates the establishment of such setback.

(7) All lots and condominium structures without rear access will have a minimum rear setback of ten feet, or the width of any required easement, whichever is greater.

(E) Common Open Space.

(1) A minimum of 200 square feet of common open space per lot or condominium apartment shall be provided within the project.

(2) Where townhouse lots and dwelling units are designed to face or front each other across common open space rather than fronting upon a public street, the common open space shall be at least 40 feet wide. However, in no case shall common open space be less than 25 feet wide where any dwelling unit sides on same.

(3) In computing the required common open space, required front or side setbacks, streets, alleys or other public rights-of-way of any kind, vehicular drives or parking areas, drainage easements, and utility easements containing or permitting overhead pole carried service shall not be included.

(F) Screening Walls. Where townhouse lots or condominium structures are backing on a public street or backing or siding on lots in a recorded plat used or intended to be used for single-family detached dwelling units, or backing or siding on undeveloped property in residence district, a two-foot wide private easement shall be provided abutting the street or common lot lines and a screening wall as defined herein shall be constructed in conformance with city standards and permanently maintained by the Home Owners Association upon the easement to provide a visual screen. The construction of screening walls shall conform to specifica-tions and standards as established by the Department of Public Works.

(G) Parking. In general, there shall be three parking spaces per townhouse lot or condominium apartment.

(1) At least two off-street parking spaces for each townhouse lot or condominium apartment shall be provided within the project.

(2) One additional parking space per lot or condominium apartment shall be provided either off-street within the project or on an abutting public street with not less than a 35-foot wide paving section.

(H) Easements.

(1) The Department of Public Works shall determine the width of the public easements for utilities and other purposes on an individual basis for each project in accordance with requirements of the sewer and water regulations set forth in Chapters 52 and 53 of this code of ordinances and any other applicable ordinance of the city.

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(2) Aerial easements, if any, may not be located along the frontage of lots or condominium structures.

(I) Height. No building or structure within a townhouse project shall have a height greater than 2½ stories or feet. However, no such building or condominium structure adjacent to a plat boundary that is coincident with the side lot line of a lot upon which a single-family detached dwelling unit exists shall not have a height greater than the adjoining single-family detached dwelling unit.

(J) Sidewalks. A sidewalk of concrete or other permanent material having a width of at least four feet shall be constructed along the front of each blot or condominium structure. If the required sidewalk is constructed within public street right-of-way, it shall be constructed to city standards.
(Ord. 505, passed 5-17-93)

§ 155.81 SUBMISSION OF WRITTEN REGULATIONS.

Not all necessary regulations can be graphically expressed on a site plan, therefore, usually it will be desirable to set forth these regulations in written form. The attached regulations are given to assist the applicant in preparation of written regulations.
(Ord. 505, passed 5-17-93)

§ 155.82 DOCUMENTS REQUIRED PRIOR TO RECORDING PLAT.

The developer of a townhouse project, prior to the recording of the plat or declaration of condominium regime for same, shall furnish the city with a copy of each of the following documents:

(A) A copy of the deed restrictions applicable to all lots or condominium units and common open space in the project.

(B) A copy of the dedication instrument for the subdivision plat or condominium regime.

(C) A copy of the articles of incorporation of a nonprofit home owners association assuring, (along with the dedication instrument required in division (B) above), that all common open space shown on the plat shall be permanently held in common ownership by each original or successive lot or condominium apartment owner through mandatory membership in said association. The association shall have continuing responsibility for the maintenance of all common open space and screening walls for the purposes intended by this subchapter. Such responsibility is to be assured by the annual contribution of each lot or condominium apartment owner to establish a maintenance fund sufficient for such maintenance. The above required documents, upon approval by the City Manager and the City Council, shall be recorded with the County Clerk at the time the plat is recorded.
(Ord. 505, passed 5-17-93)

§ 155.83 REFUSE COLLECTION AND STORAGE.

The developer shall in all cases submit a proposal for refuse collection and storage. All proposals will be evaluated based on economics, sanitation, attractiveness, and general workability. (Ord. 505, passed 5-17-93)

§ 155.84 OUTDOOR STORAGE OF PROPERTY.

Storage of boats, camper trailers, old autos, furniture and other such items on the streets, or drives or in carports, is considered unsightly and is expected to lower the quality of the overall development. Therefore, screened storage area may be required. (Ord. 505, passed 5-17-93)

§ 155.85 FIREWALL REQUIREMENTS.

Because of investments in a home, which are made in townhouses, the city feels that a wall between any two dwelling units must carry at least a two-hour fire rating. This wall shall extend from the slab foundation or the ground, if not a slab foundation to the bottom of the roof deck. Additional fire walls will be looked on with favor. (Ord. 505, passed 5-17-93)

§ 155.86 ZERO LOT LINE REGULATIONS.

(A) Purpose. The purpose of the zero lot line regulations is to provide for single-family attached or detached residential structures with one zero setback area. The intent is to allow a single-family structure to be placed on a side lot line in order to provide a more usable side yard on the other side.

(B) Lot Area. The minimum lot area width shall be 4,000 square feet

(C) Lot Width. The minimum lot width shall be 40 feet.

(D) Building Coverage. The maximum building coverage shall be 60% of the lot area.

(E) Height. The maximum height of a structure shall be 35 feet.

(F) Side Setback. Structures shall be constructed on the side lot line on one side of the lot and a side setback shall be provided on the other side of the lot subject to the following conditions:

(1) The minimum width of the side setback shall be ten feet. The same side setback requirements shall be observed by accessory structures.

(2) A zero setback shall not be permitted when such lots abuts a non-zero lot line development, in which case, a minimum side setback of five feet shall be required.

(3) An exterior side setback of at least 15 feet shall be required for corner lots.

(4) No openings for access, light or air shall be permitted in the wall on the zero setback side.

(5) The side setback shall be shown by building limit lines on the subdivision plat. Easements for maintenance, drainage and roof overhangs shall be established by notation on the plat.

(G) Front Setback.

(1) 25 feet minimum, except for rear access subdivision.

(2) 9½-foot front setback if rear parking.

(H) Rear Setback. Five feet minimum from common lot line or one foot minimum from alley. If vehicle access is from alley rear setback should be five foot from alley pavement.

(I) Parking Requirements. The minimum off-street parking requirements for the site shall be determined at the rate of two off-street parking spaces for each dwelling unit, of which at least one space per dwelling unit must be provided on each lot. The remaining parking spaces must be provided in off-street parking lots. The areas required for such lots shall be in addition to the common open space requirements.

(J) Accessory Building Setbacks.

(1) Front Setback. 25 feet minimum, except for rear access subdivisions where reduced setbacks shall apply.

(2) Side Setback Interi$or. Five feet minimum, except when the wall height exceeds eight feet or the total height exceeds 15 feet, the setback shall be equal to the total height of roof.

(3) Side Setback Exterior. 15 feet minimum.

(4) Rear Setback.

(a) From alley, one foot minimum.

(b) One foot minimum for buildings equal to or less than 150 square foot in area, eight feet in wall height, and 15 feet in total height.

(c) Five feet minimum for buildings more than 150 square feet in area, except when the wall height exceeds eight feet or the total height exceeds 15 feet, the setback shall be equal to the total height of roof.
(Ord. 505, passed 5-17-93)

§ 155.98 CONVICTION NOT BAR TO OTHER REMEDIES.

No conviction or convictions under the penal provision of this chapter, or Article 427B, State Penal Code, shall ever be considered as any bar to any injunctive or other legal remedy, relief, right, or power existing in the city, to enforce the application and provisions of this chapter by virtue of the constitution and laws of the State of Texas and the Charter of the city.
(Ord. 445, passed 12-21-87)

§ 155.99 PENALTY.

Violation of any provision or provisions of this chapter by any subdivider shall constitute a misdemeanor and upon conviction of such violation in Corporation Court of the city, a fine not exceeding $200 shall be imposed, and each day that such violation continues shall be a separate offense. In case a corporation is the violator of any provision of this chapter, each officer, agent, and/or employee is, in any wise, responsible for such violation and shall be individually and severally liable for the aforementioned penalties; provided however, the penal provisions and application of this chapter shall not apply to a duly qualified County Clerk and/or Deputy County Clerk acting in their official capacity, or in any way be construed to conflict with Article No. 427B, State Penal Code.
(Ord. 445, passed 12-21-87)

TABLE OF SPECIAL ORDINANCES

Tables

I. ABANDONMENT OF STREETS AND ALLEYS

II. ANNEXATIONS

III. CONTRACTS AND AGREEMENTS

IV. FRANCHISES

TABLE I: ABANDONMENT OF STREETS AND ALLEYS

ORD. NO.	DATE PASSED	DESCRIPTION
196	1-15-45	Closing and abandoning that part of First Street which lies generally west of the east line of the right-of-way of the Missouri-Kansas-Texas Railroad Company.
227	4-20-56	Closing and abandoning the alleyway immediately west of lot 13, block 1, Hardin Addition, and immediately east of lots 14, 15, and 16 of block 1, Hardin Addition.
228	1-14-57	Closing and abandoning Clark Street and alleys in Buckner Addition.
239	8-10-59	Closing and abandoning the seven-foot alleyway between lots 2 and 3, block L, R.S. Howell Addition.
243	7-7-60	Closing and abandoning a part of First Street lying between lot 10 of block 6 and lot 4 of block 7 of the Wigham Addition.
253	5-22-61	Closing and abandoning a 15-foot alleyway west of lot 24 of the Orchard Addition.
259	12-18-61	Closing and abandoning a part of a utility easement on lot 11, block 2, section 1, Ashton Addition.
266	3-18-63	Closing and abandoning a part of Avenue F and Ninth Street.
283	8-21-67	Closing and abandoning a part of Arb. 181, DuBose Survey beginning at a point 2622 feet south of the middle of Burkburnett and Clara Paved Highway which point is the southeast corner of one-acre tract of land a distance of 660 feet.

ORD. NO.	DATE PASSED	DESCRIPTION
327	5-20-74	Closing and abandoning three feet of Cropper Road adjoining lot 15 of Block 2 of the Chambers Addition.
394	5-17-82	Closing and abandoning of the portion of the present right-of-way on East Sycamore Street starting at an iron post in the southeast corner of block 6, Red River Valley Lands, 84.8 feet to a point, being the northeast corner of a two-acre tract, thence south 90 feet to a point the beginning containing .27 acres of land more or less.
726	11-20-06	Abandoning and selling a portion of a certain alleyway, located in Block 37 of the original townsite and bounded on the southwesterly side by Avenue A and on the northeasterly side by Avenue B.
764	8-4-09	Abandoning and selling a portion of a certain alleyway which is 0.053 acres out of the WM. O. DuBose Survey.
943	9-17-18	Abandoning a ten-foot wide utility easement on the east side of Lot 24, Block 2 Roller Estates.

TABLE II: ANNEXATIONS

ORD. NO.	DATE PASSED	DESCRIPTION
40	12-31-18	Annexing additional territory beginning at a point south 22.5 degrees east 250 feet from the northeast corner of the original townsite of the city.
41	12-31-18	Annexing additional territory beginning at a point at the most westerly northwest corner of the present corporate limits.
164	7-19-26	Annexing additional territory beginning at a point in the most westerly west line of the present city limits, and 1335.0 feet south of the center of the Burkburnett-Clara Highway.
200	12-15-47	Annexing additional territory beginning at a point, the northeast corner of the original townsite, thence north 62 degrees 30 feet east 50 feet to a point, a corner of the city limits.
225	4-26-55	Annexing additional territory being approximately 16.5 acres of land out of the C.T.R.R. Survey 1, Abstract 49 beginning at an iron post 764 feet south and 30.3 feet west of the northeast corner of the C.T.R.R. Survey 1, Abstract 49.
263	4-23-62	Annexing additional territory beginning at a point in the easternmost northeast corner of the city, thence east along a projection of the easternmost north line of the city to its intersection with the east line of block 101, Red River Valley Lands.
329	2-17-75	Annexing additional territory being situated and beginning at a point at the southeast corner of block 14 of the Red River Valley Lands Subdivision.

ORD. NO.	DATE PASSED	DESCRIPTION
330	4-21-75	Annexing additional territory beginning at a point at the southeast corner of block l4 of the Red River Valley Lands Subdivision.
598	9-18-00	Annexing additional territory beginning at a point at the intersection of the southerly north line of Samuel Anderson Survey, A-3.
697	7-18-05	Annexing additional territory beginning at the southeast corner of block 14, Red River Valley Lands Subdivision.

TABLE III: CONTRACTS AND AGREEMENTS

ORD. NO.	DATE PASSED	DESCRIPTION
294, 296		Authorizing a certain agreement between the city and the state, providing for the maintenance and use of the said maintenance project providing for the maintenance of certain state highways or portions of state highways in the city.
496	9-21-92	An agreement between the Telephone Company and the city establishing the conditions under which the Telephone Company shall maintain and construct its physical plant.
557	10-20-97	An agreement between Southwestern Bell Telephone Company and the city amending Ord. 496 to provide for a longer term and to add termination and other provisions.
558	10-20-97	Authorizing the City Manager to enter into a contract with the State Department of Public Safety implementing the failure to appear program.
763	7-20-09	Approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corp. regarding the company's rate review mechanism.
787	9-20-10	Approving a negotiated resolution between the Atmos Cities Steering Committee and Atmos Energy Corp. regarding the company's third rate review mechanism.

ORD. NO.	DATE PASSED	DESCRIPTION
852	3-17-14	Contracting with AdComp Systems, Inc. for the purpose of collection of payments for utility bills, fines, court costs or other charges by credit card.
878	5-18-15	Approving a negotiated settlement agreement between the Atmos Cities Steering Committee and Atmos Energy Corp. regarding the company's 2014 and 2015 rate review mechanism filings.
897	5-16-16	Approving a negotiated settlement agreement between the Atmos Cities Steering Committee and Atmos Energy Corp. regarding the company's 2016 rate review mechanism filings.
917	5-15-17	Approving a negotiated settlement agreement between the Atmos Cities Steering Committee and Atmos Energy Corp. regarding the company's 2017 rate review mechanism filings.
931	3-19-18	Approving a tariff authorizing an annual rate review mechanism ("RRM") as a substitution for the annual interim rate adjustment process as negotiated between Atmos Energy Corp. Mid-Tex Division and the Steering Committee.

TABLE IV: FRANCHISES

ORD. NO.	DATE PASSED	DESCRIPTION
348	1-16-78	Granting to Lone Star Gas Company, a franchise to furnish and supply gas to the general public in the city.
354	7-17-78	Granting to T.V. Cable of Burkburnett, for a term of 15 years, the right to provide cable television service in the city.
501	4-19-93	Granting to TCI Cablevision of Texas, Inc., for a term of 15 years, the right to provide cable television service in the city.
506	8-16-93	Amending franchise between the city and Texas Utilities Electric Company to provide for a different consideration.
560	2-16-98	Approving retail base rate reductions for Texas Utilities Electric Company.
561	4-20-98	Approving the transfer of the cable television franchise from TCI Cablevision of Texas, Inc., to Friendship Cable of Texas, Inc.
639	7-15-02	Amending franchise between the city and TXU Gas Company to provide for a different consideration.
640	7-15-02	Amending franchise between city and ONCOR electric delivery company to provide for a different consideration.
642	7-15-02	Amending franchise between the city and TXU Gas Company to provide for a different consideration.
647	11-18-02	Granting to IESI TX Corporation, a franchise to provide solid waste management in the city.
659	7-21-03	Denying TXU Gas Company's request to change rates.

ORD. NO.	DATE PASSED	DESCRIPTION
700	7-18-05	Denying the request of Atmos Energy Corp., Mid-Tex Division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase.
710	4-17-06	Ordering Atmos Energy Corp., Mid-Tex Division, to reduce its existing rates and adopting specific new rates.
712	7-17-06	Granting to Atmos Energy Corp. a franchise to construct, maintain and operate pipelines and equipment in the city.
713	6-19-06	Denying the request of Atmos Energy Corp., Mid-Tex Division, for an annual Gas Reliability Infrastructure Program (GRIP) rate increase.
714	7-17-06	Amending the existing franchise between the city and TXU Electric Delivery Company and extending the franchise term.
806	6-28-11	Approving the request of ONCOR electric delivery company for a rate increase.
809	8-15-11	Approving the request of Atmos Energy Corp., Mid-Tex Division, for a natural gas rate increase.
846	10-21-13	Declaring existing gas utility rates with Atmos Energy Corp., Mid-Tex Division to be unreasonable, setting new rates, and requiring reimbursement to the city.

ORD. NO.	DATE PASSED	DESCRIPTION
902	10-17-16	Granting to Oncor Electric Delivery Company LLC a nonexclusive electric power franchise within the city limits that will expire on September 30, 2037.

PARALLEL REFERENCES

REFERENCES TO STATE STATUTES

REFERENCES TO ORDINANCES

REFERENCES TO RESOLUTIONS

V.T.C.S. SECTION	CODE SECTION
62.003, 64.401 - 64.404,65.313, 65.408, Title 110B	32.05
62.004, 62.601 - 62.605, 65.314, 65.409, 65.502, Title 110B	32.06
63.003, Subtitle G, Title 110B	32.10(A)
63.303, Subtitle G, Title 110B	32.08(A),(C)
63.502, Subchapter F, Title 110B	32.09(A)
63.503, Subchapter F, Title 110B	32.09(A)
63.505, Subchapter F, Title 110B	32.09(A)
64.202(f), Title 110B	32.07
64.204, Title 110B	32.07
64.204(b), Title 110B	32.07
64.301 - 64.308, Title 110B	32.07
64.405, Title 110B	32.07
64.406, Title 110B	32.07
64.408, Title 110B	32.07
64.409, Title 110B	32.07
64.410, Title 110B	32.07
853.401 - 853.404, Subtitle G of Title 8	32.02
Art. 974a	30.03, 155.12
Art. 1066C, Sec. 4B(a)	31.10
Art. 1301a	155.76
Art. 4418d	95.15(A)
Art. 6243h	32.01
Art. 6675a - 5e.1, Sec. 1(a)	72.06(E)
Art. 6701d	70.20
Art. 6889-7	93.02(M)

V.T.C.A. SECTION	CODE SECTION
Art. 5190.7	31.15(A)
341.064	Ch. 100
854.202 (g)	32.01
854.205	32.01
855.407(g)	32.01

TEXAS ADMINISTRATIVE CODE SECTION	CODE SECTION
Title 30, Ch. 30, Subch. A, G	52.88, 52.89, 52.94
228.1	95.30, 95.31
228.2	95.30, 95.31
228.2(64)	95.36
228.2(144)	95.61
228.31 - 228.45	95.30, 95.31
228.33	95.50
228.61 - 228.83, 228.101 - 228.125, 228.141 - 228.154, 228.171 - 228.186, 228.201 - 228.213, 228.221 - 228.225	95.30, 95.31
Rule 228.221	95.62
228.241 - 228.257, and 228.271 - 228.278	95.30, 95.31
Ch. 265, Subch. L	100.01, 100.02
Ch. 265, Subch. M	100.01, 100.02

TEXAS ADMINISTRATIVE CODE (Cont'd)	CODE SECTION
Ch. 285	52.88, 52.89, 52.94, 52.99
285.10(d)(1) - 285.10(d)(4)	52.95
285.10(d)(5)	52.95
285.14	52.95
285.3(a)(3)	52.90
285.3(d)	52.90
285.3(f)	52.90
285.3(f)(2)	52.90
285.32(a)	52.90
285.39	52.90
285.7	52.90
285.71	52.94
285.91(2)	52.90
285.91(12)	52.90

TEXAS ALCOHOLIC BEVERAGE CODE	CODE SECTION
32.11	102.03

TEXAS CODE OF CRIMINAL PROCEDURE	CODE SECTION
Ch. 18	91.46
44.01	33.11
Ch. 62	101.02

TEXAS FAMILY CODE	CODE SECTION
Ch. 31	131.01
51.08	131.01

TEXAS GOVERNMENT CODE	CODE SECTION
Ch. 30	33.01
54.001(b)	101.01
853.305	32.12
853.401	32.02(F)
853.402	32.02(C)
853.404	32.02(E), 32.03
853.601	32.02(B)
854.203	32.03

TEXAS HEALTH AND SAFETY CODE SECTION	CODE SECTION
Ch. 146	113.04
Ch. 341	52.94, 52.99
Ch. 341.011	118.01
341.064	100.01, 100.02
Ch. 366	52.85, 52.94, 52.99
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437.001	95.30
Ch. 757	100.01, 100.02

TEXAS HEALTH AND SAFETY CODE (Cont'd)	CODE SECTION
757.005	100.04
Ch. 821	91.28
Ch. 822	91.28
822.0422	91.62
Ch. 826	91.60
826.045	91.60
Ch. 841	101.02

TEXAS LOCAL GOVERNMENT CODE	CODE SECTION
54.001	10.99
54.001(b)	118.99
Ch. 214	150.36, 150.37
214.0012	150.39
214.0015	150.99
215.072	33.05
217.042	33.05
Ch. 284	104.02
284.003	104.05
284.055	104.10
341.903	33.05
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552.041 - 552.054	54.02
552.044	54.01
552.046	54.02
552.050	54.06
552.053(c)	54.05
Subchap. A, Ch. 214	33.05, 150.01
Subchap. B, Ch. 54	33.05

TEXAS PENAL CODE	CODE SECTION
38.15	91.03

TEXAS TAX CODE	CODE SECTION
Ch. 33	Charter Art. IX, § 7
Ch. 312	31.15(C)(2)
Ch. 321	31.15(C)(1)
321.508	31.15(C)(1)

TEXAS TRANSPORTATION CODE SECTION	CODE SECTION
502.001	75.01
541.201	70.02
545.352	71.05
545.356	71.05
Ch. 601	76.01
Subchap. N, Ch. 601	76.01
683.071	90.01
683.074 et seq.	90.01

TEXAS TRANSPORTATION CODE (Cont'd)	CODE SECTION
683.074(b)(c)	90.05
683.077	90.02
Subchap. E, Ch. 683	33.05

TEXAS WATER CODE SECTION	CODE SECTION
Ch. 7	52.85, 52.94
16.315	152.01
Ch. 26	52.94, 52.99
Ch. 37	52.85, 52.94

ORD. NO.	DATE PASSED	CODE SECTION
1	1-10-13	33.01(A)
40	12-31-18	T.S.O. II
41	12-31-18	T.S.O. II
47	7-7-19	99.01, 99.99(A)
56	9-15-19	71.20
121	2-28-23	71.02
125	7-30-23	33.02
128	1-7-24	71.02
131	4-21-24	99.02
155	8-17-25	33.03
158	2-1-26	53.21
160	2-1-26	130.03
164	7-19-26	T.S.O. II
170	1-6-30	71.03
196	1-15-45	T.S.O. I
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